



the army

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**Property Accountability:
Revised AR 735-11**

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The revised Army Regulation 735-11,¹ (hereinafter referred to as AR 735-11), contains property accountability procedures for the Army that differ significantly from those contained in AR 735-11, 1 May 74 (hereinafter referred to as Old AR 735-11). Damages collectible will no longer be for the full amount of a loss, in most cases, but will be limited to one month's pay. Gross and simple negligence standards have been discarded in favor of a single definition of negligence. A new Report of Survey form has been adopted, and a new method of accounting for losses when there is no negligence has been instituted. Approval and appeal authorities usually are at the SPCMCA and GCMCA levels rather than higher authority as previously was the case. This article identifies changes of particular interest to attorneys who will be called upon to provide advice concerning the new procedures.

Background. Changes in Army accountability procedures were prompted by a 1977 report of The Inspector General.² Having conducted a survey of Army installations and divisions, The Inspector General concluded that dollar losses were so large that improved management of

the accountability systems was needed.³ The Chief of Staff approved the report to include implementation of 19 recommendations pertaining to property accountability.⁴ Subsequently, the Department of the Army Property Accountability Task Force (DAPATAF) was established to implement The Inspector General recommendations.⁵

The work of the DAPATAF included consideration of both legal and policy questions and resulted in adoption of AR 735-11. Because some of the procedures desired by the DAPATAF varied with DOD policy on property accountability,⁶ deviation from DOD 7200.10-M was requested.⁷ DOD either approved the deviations requested or determined that the Army could implement procedures it desired without need for DOD approval.⁸ With respect to a proposal to limit pecuniary liability to one month's pay, DOD approval was for Army implementation on an interim basis.⁹ DOD wide application may be considered if the Army procedures are effective. Consequently, during 1979 the Army will be collecting data to evaluate the cost-effectiveness of this limitation.

Effective Dates. AR 735-11 is to be applied to losses occurring later than midnight, 31 Dec

78.¹⁰ Loss is defined to be loss of, damage to, or destruction of property of the United States Government under control of the Army.¹¹ For losses occurring before 1 January 1979 the procedures contained in prior editions of AR 735-11 will be applied. Therefore, Old AR 735-11 should be retained for use as necessary.

Insofar as the National Guard is concerned, revised NGR 735-11 will implement AR 735-11.¹² However, revised NGR 735-11 has not yet been promulgated. Consequently, until it is published existing National Guard procedures, which follow Old AR 735-11, will remain in effect.

The Limitation on Charges. The limitation on pecuniary charges to one month's base pay does not apply to all losses of government property. As reflected in paragraph 4-16b, AR 735-11, the limitation does not apply to losses attributable to accountable officers or for losses of personal arms and personal equipment.¹³ Because collection from an accountable officer is based on 37 U.S.C. 1007(f); the full amount of loss attributable to such an officer is to be charged. Arms and equipment losses collectible pursuant to 37 U.S.C. 1007(e), likewise must be charged in full.

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pamphlet refer to both genders unless the context indicates another use.

The Army Lawyer welcomes articles on topics of interest to military lawyers. Articles should be typed double spaced and submitted to: Editor, *The Army Lawyer*, The Judge Advocate General's School, Charlottesville, Virginia, 22901. Because of space limitations, it is unlikely that articles longer than twelve typewritten pages can be published. If the article contains footnotes they should be typed on a separate sheet. Articles should follow *A Uniform System of Citation* (12th ed. 1976). Manuscripts will be returned only upon specific request. No compensation can be paid for articles.

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Issues may be cited as *The Army Lawyer*, [date], at [page number].

Although paragraph 4-16b(2), when read in connection with Table 4-2 and paragraph 1-7ag, could be interpreted to require charging the full amount of a loss for any weapon, it is intended that the one month base pay limitation be applied in cases of loss of nonpersonal weapons. Also, it is intended that depreciation be allowed, pursuant to paragraph 4-17, for losses of equipment or weapons. This includes depreciation for personal arms.

Equipment Loss. Equipment, as defined in paragraph 1-7j, includes items designed for personal use or performance of duty by an individual and normally stored with personal effects of, or worn, or carried on, the person. Considering this definition, a factual determination whether there is personal responsibility of equipment should be made by survey officers in order to know whether the base pay limitation applies. For example, while binoculars normally are considered items of personal equipment,¹⁴ there are times when such property may be other than personal equipment (e.g., a supply clerk negligently damages his jeep and several pairs of binoculars, which are being transported in it). A survey officer's factual determination about an individual's relationship to equipment is crucial, because if the equipment is the personal responsibility of an individual, pecuniary charges will be for the full amount of any loss. On the other hand, if responsibility is nonpersonal, charges will be subject to the one month base pay limitation.

Collection of Charges. Whether collection of charges from pay is authorized may depend on whether the individual causing the loss is an officer or enlisted person. Paragraph 4-28a, which is based on 37 U.S.C. 1007(c), provides for involuntary collection from enlisted personnel of pecuniary charges as determined by a report of survey. Collection against officers and civilian employees, except as specifically identified (i.e., for loss of arms and equipment and for loss by accountable officers) is voluntary.¹⁵ Involuntary collection may not reduce the actual pay received per month to less than one-third of basic pay per month.¹⁶ Consequently, if a full month's base pay or more is to be charged, collection must be prorated over two

or more months. As noted in paragraph 4-23c, this collection period may be extended by the approving authority based on financial or personal circumstances of the individual held liable. Extension of the period of collection is discretionary with the approving authority, and the maximum period of extension is not limited.

Remission of Indebtedness. In addition to the regulatory limitation on pecuniary charges, indebtedness may sometimes be remitted pursuant to paragraph 5-8. Remission of indebtedness is based on 10 U.S.C. 4837(d) and is distinguishable from the base pay limitation.¹⁷ Remission applies only to enlisted members and requires a Secretarial determination that it is in the best interest of the United States. Each surveying officer is required to insure that any individual held pecuniarily liable is aware of the right to request remission when permitted by statute.¹⁸

Applications of the Limitation on Charges. Table 4-2, AR 735-11, provides examples of how to calculate charges with respect to loss of arms and equipment (A&E) and other equipment and property (OEP) for military members and civilian personnel. As reflected in that table, the loss for both A&E and OEP by civilian personnel is subject to the one month limitation. The grade of a person on the date of the loss should be used to determine base pay.¹⁹ The grade of a person at the time of collection, regardless of whether promoted or demoted, is immaterial in determining the amount of limitation to be applied. It should be noted that the combined losses of A&E and OEP arising from a single incident may result in charges in excess of one month's pay. The A&E loss simply is added to either the actual OEP loss, if that loss amounts to less than one month's base pay, or to one month's base pay if the OEP loss is greater than one month's base pay.²⁰

Negligence. Old AR 735-11 contained definitions of simple and gross negligence.²¹ The standard to be applied usually was dependent upon whether responsibility for property was personal or supervisory.²² In the new regulation, "nonpersonal responsibility" is used instead of "supervisory responsibility", the defi-

inition of personal responsibility has been refined, and there is but one definition of negligence.²³ Negligence as now defined closely resembles the definition of simple negligence contained in old AR 735-11. Consequently, individuals with either personal or nonpersonal responsibility for property are held to the same standard. Considering the principles in paragraph 4-13, AR 735-11, a person may be found pecuniarily liable if his or her negligence or willful misconduct is the proximate cause of any loss, damage, or destruction of Government property. The relationship of the person to the property is to be considered in determining whether an act or omission is negligent, but relationship to property no longer determines the standard of negligence to be applied.

Proximate Cause. The definition of proximate cause has also been changed. The old definition, which used "substantial factor" terminology and included presumptions in case of losses occurring during willful misconduct and wrongful appropriation,²⁴ has been replaced with a simpler definition. Proximate cause is now defined as the "cause that, in a natural and continuous sequence, unbroken by a new cause, produces the loss or damage, and without which the loss or damage would not have occurred."²⁵ This definition is taken from DOD 7200.10-M which further defines proximate cause as "the primary moving cause, or the predominating cause, from which the injury follows as a natural, direct, and immediate consequence, and without which it would not have occurred."²⁶ The change in definition should not be viewed as a change in customary legal principles to be applied; the change is an attempt to make this legal concept more clearly understandable for those who must apply it.

As in the past, the new definition does not foreclose application of general legal principles about proximate cause.²⁷ For example, Restatement (Second) Torts recognizes certain considerations as important in determining whether an actor's conduct is a substantial factor (primarily or predominating cause) in bringing about harm. These include the number and importance of other factors which contributed to producing the harm, whether the ac-

tor's conduct created a force which is in continuous and active operation up to the time of the harm, and lapse of time.²⁸ Other factors have been considered in determining whether an intervening force is a superseding cause. Some of these include the fact that the intervening force brings about a different kind of harm from that which otherwise would have resulted from the actor's negligence, the fact that the consequence of an intervening force appears extraordinary, the fact that the intervening force is operating independently of any situation created by the actor's negligence or is not a normal result of that negligence, and the fact that the operation of the intervening force is due to a third person's act or omission.²⁹ When applicable, these principles may be used to determine whether negligence or willful misconduct is the proximate cause of a loss for the purposes of AR 735-11.³⁰

Recognized presumptions also can be applied in allocating the burden to prove or refute negligence or willful misconduct as the proximate cause of a loss. Thus even though in willful misconduct situations the presumption of proximate cause no longer exists as a matter of policy,³¹ other presumptions may be used if applicable. For example, The Judge Advocate General has recognized the doctrine of *res ipsa loquitur*.³² If applicable in a willful misconduct situation, it may be applied. Similarly, the burden of proof as to apportionment of damages between two or more tortfeasors may be upon the actor who seeks to limit liability on the ground that the loss is capable of apportionment.³³ Normally, of course, the burden is on the Government to prove that negligence of the actor caused the loss.³⁴ Absent application of a proper presumption, proof of proximate cause in willful misconduct cases will also be upon the Government.³⁵

*Application of Article 31, U.C.M.J.*³⁶ Related to determinations of negligence and of possible disciplinary action is the applicability of Article 31, U.C.M.J., to survey procedures. Under a single negligence standard, supervisory personnel may be found pecuniarily liable. AR 735-11 also suggests that, where appropriate, disciplinary measures be used to enforce supply discipline.³⁷ Because of these factors, questions on application of Article 31 appear likely. The Judge Advocate General has

concluded that there is no requirement for a survey officer to administer an Article 31 warning and that statements taken in violation of Article 31 may be admitted into evidence in administrative proceedings.³⁸ Nevertheless, because incriminating admissions to survey officers without adequate warning preclude their use in trials by courts-martial, TJAG further concluded that investigating officers should be cautioned to advise a military member of his rights if at anytime during an administrative investigation he becomes suspected of an offense punishable by courts-martial.³⁹ Consequently, it may be advisable for persons familiar with Article 31 requirements to be appointed survey officers when willful misconduct is suspected. At the minimum, all survey officers should be advised of the possible applicability of Article 31.

Government Property Lost or Damaged Report (GPLD). When no apparent negligence or willful misconduct is involved, loss of government property now may be accounted for by use of the GPLD.⁴⁰ However, there are times when the GPLD may not be used because a report of survey is required. For example, a report of survey is required for any accident involving a military vehicle when negligence or misappropriation is suspected, regardless of the amount of damage, or when damage to a military vehicle, regardless of cause, exceeds \$500.⁴¹ If there is non-negligent damage of more than \$500 (estimated cost of repair) to property or if there are other non-negligent losses of property, regardless of the value, a GPLD must be initiated.⁴² If there is non-negligent damage to property of less than \$500, however, a GPLD is not required; instead the commander must sign a statement relating the cause of the damage.⁴³ In determining whether a GPLD is required or permissible, care should be taken to distinguish "damage" to property from "loss" or "destruction" of property in interpreting Chapter 2, AR 735-11.

Although not specifically identified as such in AR 735-11, the approving authority for GPLD reports by definition is the approving authority for reports of survey.⁴⁴ No legal review is required before approving the GPLD because it may not be used to assess liability. Nevertheless, approving authorities must consider the issue of negligence when reviewing the GPLD and may direct a survey when

circumstances warrant.⁴⁵ Consequently, judge advocates should be prepared to advise approving authorities as to when a survey should be directed.

Approving and Appeal Authorities. Under Old AR 735-11, appointing authorities generally were battalion commanders,⁴⁶ those reviewing and taking certain final actions were the installation commanders,⁴⁷ reviewing authorities were MA-COMS,⁴⁸ and appeal authority was at Department of the Army.⁴⁹ This structure is changed by AR 735-11. Appointing authorities, defined in paragraph 1-7b, normally will be battalion commanders. However, approving authorities, as provided in para 1-7c, usually will be special court-martial convening authorities and may be other officers in the grade of COL, or above, who have been designated such authority by certain general officers.⁵⁰ These approving authorities take "initial" action "by authority of the Secretary of the Army" either to relieve individuals from accountability and liability, or to approve pecuniary charges.⁵¹ Request for reconsideration may be acted on by the approving authority who approved the initial action.⁵² "Requests for reconsideration" are distinguished from "appeals" which are the responsibility of the appeal authorities.⁵³ The appeal authorities are either general court-martial convening authorities having jurisdiction over the command in which the loss occurred or other commanders in the grade of O-7 or above, who have been designated appeal authorities pursuant to paragraph 5-6b.⁵⁴ These appeal authorities take "final" action "by authority of the Secretary of the Army".⁵⁵

Legal Review. This realignment of authority over reports of survey may necessitate similar redistribution of responsibility in legal offices because legal review for both the approval and appellate authorities may be accomplished in the same staff judge advocate office.⁵⁶ Paragraph 4-23b, which requires legal review at approving authority level before imposition of pecuniary liability, alerts staff judge advocates to monitor for potential conflicts which may result in having the same office advise both approving and appellate authorities.⁵⁷ For example, conflicts may arise if report of survey/GPLD approving authorities obtain advice from counsel who may be required later to advise an individual against whom either pecuniary or criminal charges are recommended.⁵⁸ Both attorneys

and approving authorities should be aware of and take steps to avoid potential conflicts. Clearly delineating courts-martial and accountability responsibility of attorneys should help to preclude ethical conflicts.

Legal officers should be prepared to advise commanders about proper designation of approval and appeal authorities pursuant to paragraphs 1-7c(2), 4-21 and 5-6. Such designations may not only aid in avoiding conflict of interest problems, but also expedite processing of accountability documents.

Suggested Changes. The DAPATAF is collecting information to correct mistakes and clarify procedures contained in AR 735-11. The first change to the regulation should be prepared within a year. Corrections or suggestions for clarification may be addressed to HQDA, ATTN: DALO-ZXT, Pentagon, Washington, D.C. 20310 (Phone: Autovon 224-3238 or Commercial 202-694-3238).

FOOTNOTES

¹ Army Reg. No. 735-11, Accounting for Lost, Damaged, and Destroyed Property (Oct. 15, 1978).

² Letter to the Chief of Staff, United States Army, from the Office of the Inspector General (DAIG-IS), subject: Report of Audit Survey Special Inspection of Management and Accountability of Army Materiel, Oct. 6, 1977.

³ *Id.* The report concludes that accountability had been lost for about one percent of the property of units sampled. Statistically this amounted to a loss of about \$118.5 million when extended to the entire active component of the Army. For losses resulting in Reports of Survey, assessment of liability against individuals amounted to 8.2 percent of the value of the loss for the units surveyed. Of this, only about 88 percent of the liability assessed was collected from a responsible individual's pay.

⁴ Letter from the Vice Chief of Staff, United States Army, subject: Management and Accountability of Army Materiel, Oct. 11, 1977 (attached to DAJA-AL 1977/5799, *supra* note 2).

⁵ Letter from Office of the Adjutant General (DALO-ZXT), subject: Department of Army Property Accountability Task Force, Oct. 25, 1977 (attached to DAJA-AL 1977/5799, *supra* note 2).

⁶ See DOD 7200.10-M, Department of Defense Accounting And Reporting of Government Property Lost, Damaged, or Destroyed (May 16, 1977) [hereinafter cited as DOD 7200.10-M].

⁷ Memorandum For Assistant Secretary of Defense (Comptroller) from the Assistant Secretary of the Army (IL&FM), subject: Report of Audit Survey and Special Inspection of Management and Accountability of Army Materiel, Jan. 30, 1978 (attached to DAJA-AL 1977/6362, 29 Dec 77). Deviations requested pertain to the standard of negligence, limitation on liability, level of approval and appeal authorities, and changes in use of cash collection and report of survey forms.

⁸ Memorandum for the Assistant Secretary of the Army (IL&FM), from the Assistant Secretary of Defense (C), subject: Report of Audit Survey and Special Inspection Management Accountability of Army Materiel, Jul. 10, 1978 (copy attached to DAJA-AL 1978/3311, 26 Jul 78 [hereinafter cited as DAJA-AL 1978/3311]).

⁹ *Id.*

¹⁰ AR 735-11, *supra* note 1, at para. 1-2.

¹¹ *Id.* at para. 1-7n.

¹² Draft Proposed National Guard Reg. No. 735-11, Accounting for Lost, Damaged, and Destroyed Property (attached to DAJA-AL 1978/3856, 6 Nov 78).

¹³ AR 735-11, *supra* note 1, para. 1-7j.

¹⁴ *Id.*

¹⁵ *Id.* at para's. 4-28b & c; 29 Comp. Gen. 99 (1949).

¹⁶ 37 U.S.C. 1007 (c). See DAJA-AL 1977/6194, 6 Dec 77.

¹⁷ See DAJA-AL 1978/3311, *supra* note 8.

¹⁸ AR 735-11, *supra* note 1, para's 4-9a and 4-23a(5). It is noted that para 5-8b, AR 735-11, provides that requests for remission resulting from pecuniary changes raised on reports of survey normally will not be considered favorably and should not be submitted.

¹⁹ Instructional Seminar by members of the DAPATAF, Fort Lee, Virginia (27-28 Nov 78).

²⁰ For clarity the words "for OEP" in footnote 4, Table 4-2, AR 735-11, *supra* note 1, should be deleted.

²¹ Army Reg. 735-11, Accounting for Lost, Damaged, and Destroyed Property, para. 1-7r (May 1, 1974) [hereinafter cited as Old AR 735-11].

²² *Id.* at para's 1-7ac and 4-18.

²³ AR 735-11, *supra* note 1, at para's 1-7o and z.

²⁴ Old AR 735-11, *supra* note 21, at para. 1-7z.

²⁵ AR 735-11, *supra* note 1, at para. 1-7v.

²⁶ DOD 7200.10-M *supra* note 6, at p. A-3.

²⁷ See Dep't of Army Pam. No. 27-21, Military Administrative Law Handbook, para. 5-5b(2) (Oct. 15, 1973).

²⁸ Restatement, Second, Torts, Sec. 433.

²⁹ *Id.* at Sec. 442.

²⁹ *Id.* at Sec. 442. See also sections 447 and 448 as to how negligent intervening or criminal acts may affect proximate cause (e.g., of a person with nonpersonal responsibility).

³⁰ See AR 735-11, *supra* note 1, para. 4-13.

³¹ The presumption in para. 1-7z, Old AR 735-11, *supra* note 21, about proximate cause being presumed in cases of willful misconduct has been deleted from the new regulation.

³² DAJA-AL 1976/5863, 22 Nov 66. See also Restatement, Second, Torts, Sec. 328D; McCormick, LAW OF EVIDENCE, 613 (1954). See also JAGA 1967/4364, 25 Sep 76.

³³ Restatement, Second, Torts, Sec. 433B.

³⁴ *Id.* at Sec. 328A.

³⁵ See AR 735-11, *supra* note 1, para 4-13. Restatement, Second, Torts, Sec. 435B, which pertains to measuring damages, infers that the degree of moral wrong in acting may be considered in determining whether an actor is liable for resulting unintended harm.

³⁶ U.C.M.J. Art. 31 requires warnings about self-incrimination for military personnel suspected of offenses.

³⁷ See AR 735-11, *supra* note 1, para 1.8a and app. A.

³⁸ DAJA-AL 1969/3370, 31 Jan 69. See also, DAJA-AL 1964/4220, 10 July 64.

³⁹ *Id.*

⁴⁰ AR 735-11, *supra* note 1, para. 2-3

⁴¹ *Id.* at para's 2-5 and 2-20f.

⁴² *Id.* at para. 2-4b(2).

⁴³ *Id.* at para. 2-4b(3).

⁴⁴ *Id.* at para. 1-7c.

⁴⁵ *Id.* at para's 2-18, 2-19, and 2-20b.

⁴⁶ Old AR 735-11, *supra* note 21, Ch. 4.

⁴⁷ *Id.* at Ch. 5.

⁴⁸ *Id.* at Ch. 6.

⁴⁹ *Id.* at para. 10-6

⁵⁰ AR 735-11, *supra* note 1, at para. 1-7c.

⁵¹ *Id.* at para. 4-23c.

⁵² *Id.* at para. 5-4a.

⁵³ *Id.*

⁴³ *Id.*

⁵⁵ *Id.* at para. 5-6b.

⁵⁶ See *Id.*, at para's 4-23 and 5-7.

⁵⁷ See ROBIE, TEACHING OR PROFESSIONAL RESPONSIBILITY TO FEDERAL GOVERNMENT ATTORNEYS: THE UNEASY PERCEPTION, 80 MIL. L. REV. 29 (1978).

⁵⁸ AR 735-11, *supra* note 1, para's 4-10 and 5-4d.

Law Day 1979

A subject of special importance to every American has been selected as the theme for the twenty-second annual nationwide celebration of Law Day U.S.A. on May 1, 1979. It is "Our Changing Rights."

The theme directs attention to the many changes which have, and are, taking place in individual rights. Many matters are being litigated today that simply did not go to court twenty, or even ten, years ago. Many of these matters fall in the expanding area of "rights."

The Law Day 1979 theme will give the bench, bar and electorate an opportunity to give thoughtful consideration to these important questions: What are rights? What is the

origin of rights? Is there a difference between human rights and legal rights? Is the remedy for conflicting rights judicial, legislative or both? Does society have rights as well as the individual? Can or should responsibilities be divorced from rights?

Judge advocate officers are invited to participate in conveying the spirit of Law Day to both the military and civilian communities. Staff Judge Advocates are urged to designate a Law Day Chairperson and to take all necessary steps toward supporting the 1979 Law Day theme.

To assist with Law Day preparation, the American Bar Association has made available

its 1979 Planning Guide and Program Manual. This booklet can be obtained at no expense from the American Bar Association, Adjunct Committee on Law Day, 77 South Wacker Drive, Chicago, IL 60606. Telephone (312) 621-9248 or 9249. The planning guide contains an order form for promotional materials which may be obtained with local funds. The deadline

for orders in the continental United States is 9 April.

In order to be considered for the ABA Award of Merit for outstanding observance of Law Day, an after-action report must be forwarded to The Judge Advocate General's School, ATTN: JAGS-DDL, Charlottesville, VA 22901, not later than 10 May 1979.

TJAGSA Video and Audio Catalogue

An eight minute color video tape has recently been added to the TJAGSA tape catalogue. The tape concerns personal liability of commanders in civil litigation and is shown to commanders attending the Senior Officers' Legal Orientation (SOLO) Course at the School and the Pre-Command Course (PCC) at the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas. This ¾

inch video cassette was designed for viewing by non-lawyers and would be appropriate for showing at Commander's Call. The tape is available through a tape dubbing service. Requests and tapes should be forwarded to The Judge Advocate General's School, U.S. Army, ATTN: Television Operations, Charlottesville, VA 22901.

Labor Law Item

Labor and Civilian Personnel Law Office, OTJAG

Military Union Problems

All Staff Judge Advocates are reminded that there are three primary reference sources for military union problems. They are the statute, 10 U.S.C. 975, enacted on 18 October 1978; the Department of Defense Directive 1354.1, dated 6 October 1977; and AR 600-80, dated 15 January 1978. Before an opinion on any issue pertaining to military unions is rendered, all three references should be consulted. Each

Staff Judge Advocate should also be familiar with the reporting requirements of paragraph 8, AR 600-80. Any incident involving prohibited military union activity is to be reported to Headquarters, Department of the Army (DAPE-HRL) by priority message with information copies to intermediate headquarters. If there are any questions concerning military unions or related activities, contact the Labor and Civilian Personnel Law Office, Auto von 225-9300 or 225-9476.

Reserve Affairs Items

Reserve Affairs Department, TJAGSA

1. Law School Liaison Program

The Law School Liaison Program was established five years ago and continues to provide a source of information for law school

students interested in the Judge Advocate General's Corps. Under this program, Reserve Component judge advocate officers voluntarily act as the Corps' liaison at law schools throughout the country. These officers are

available to provide interested law students with pertinent information concerning assignment with the Judge Advocate General's Corps, both active duty and Reserve Component. Material is distributed by the Director, Reserve Affairs Department to each liaison officer. This material provides him with information necessary to answer the wide range of inquiries which he can expect to receive.

Since the program has been in effect, the number of participants has increased to 48 volunteers who represent the Corps as liaison to 75 law schools in 27 states, the District of Columbia, and Puerto Rico.

The program provides an excellent opportunity for Reserve Component judge advocate officers to participate in a vitally important Corps activity. Reserve involvement in the recruiting of new judge advocate officers brings beneficial results to both the Active Army and the Reserve Components.

The following list contains the law schools which are presently served by a liaison officer. Reserve judge advocate officers who wish to assist in this program at other schools, or who would like additional information, should contact the Director, Reserve Affairs Department, The Judge Advocate General's School, Charlottesville, Virginia 22902.

RESERVE COMPONENT LAW SCHOOL LIAISON OFFICERS

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
ARIZONA			
<i>Tempe</i>	Arizona State University College of Law	CPT Don Zillman College of Law, ASU Tempe, AZ 85281	602-965-7491
ARKANSAS			
<i>Fayetteville</i>	University of Arkansas School of Law	MAJ John C. Hawkins, Jr. P.O. Box 4969 Texarkana, TX 75501	214-792-8631
<i>Little Rock</i>	University of Arkansas School of Law	MAJ John C. Hawkins, Jr. P.O. Box 5969 Texarkana, TX 75501	214-792-8631
CALIFORNIA			
<i>Anaheim</i>	Pepperdine University School of Law	MAJ John L. Moriarity 14123 Victory Boulevard Van Nuys, CA 91401	213-988-8222
<i>Davis</i>	University of California Law School (Davis)	CPT John A. Dougherty District Attorney's Office Room 301, Court House 720 9th Street Sacramento, CA 95814	, 016-444-0520

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
<i>Los Angeles</i>	University of California Law School (UCLA)	CPT James L. Racusin Los Angeles County Public Defenders Office, Room 106 6230 Sylmar Avenue Van Nuys, CA 91401	213-787-3350
	Loyola University of Los Angeles School of Law	CPT Michael Shapiro 23150 Crenshaw Boulevard Torrance, CA 90505	213-530-7933
	Southwestern University School of Law	CPT Andrew D. Amerson Attorney General's Office 800 Tishman Building 3580 Wilshire Boulevard Los Angeles, CA 90010	213-736-2200
<i>Sacramento</i>	McGeorge Law School	CPT John A. Dougherty District Attorney's Office 720 9th Street Sacramento, CA 95814	916-444-0520
<i>San Diego</i>	University of San Diego School of Law	LTC David M. Gill 220 West Broadway San Diego, CA 92101	714-236-4006
<i>San Francisco</i>	Hastings College of Law	MAJ John G. Milano Milano & Cimmet Civic Center Building 507 Polk Street San Francisco, CA 94102	415-441-4410
FLORIDA			
<i>Tallahassee</i>	Florida State University Law School	COL Bjarne B. Andersen, Jr. 2337 Limerick Drive Tallahassee, FL 32308	914-488-9110
ILLINOIS			
<i>Champaign</i>	University of Illinois School of Law	LTC Richard H. Mills Circuit Court 8th Judicial Circuit Cass County Court House Virginia, IL 62691	217-452-3075
<i>Chicago</i>	University of Chicago School of Law	LTC Michael I. Spak Chicago-Kent College of	312-782-6616

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
	DePaul University College of Law	Law 77 South Wacker Drive Chicago, IL 60606	
	Loyola University College of Law		
	Northwestern University College of Law		
	John Marshall School of Law	CPT Michael Cahill States Attorney Office 2600 South California Avenue Chicago, IL 60608	312-542-2900
IOWA			
<i>Des Moines</i>	Drake Law School	MAJ Harold L. Van Voorhis 605 Savings and Loan Building 206 Sixth Avenue Des Moines, IA 50309	515-283-2241
<i>Iowa City</i>	University of Iowa College of Law	CPT Edmund E. Barry 112 1/2 East 3rd Street West Liberty, IA 52776	319-627-4797
KENTUCKY			
<i>Lexington</i>	University of Kentucky College of Law	CPT Timothy R. Futrell P.O. Box 307 Cadiz, KY 42211	502-522-3022
<i>Louisville</i>	University of Louisville School of Law	CPT James F. Gordon, Jr. Barlett, McCarroll & Nunley 302 Masonic Building P.O. Box 925 Owensboro, KY 42301	502-683-3535
LOUISIANA			
<i>Baton Rouge</i>	Louisiana State University Law School	COL Harold L. Savoie P.O. Box 2881 Lafayette, LA 70501	318-235-7371
	Southern University School of Law		
LOUISIANA			
<i>New Orleans</i>	Loyola University School of Law	COL Harold L. Savoie P.O. Box 2881 Lafayette, LA 70501	318-235-7371
	Tulane University School of Law		

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
MAINE			
<i>Portland</i>	University of Maine School of Law	LTC Peter A. Anderson Anderson & Norton 61 Main Street Bangor, ME 04401	207-947-0303
MARYLAND			
<i>Baltimore</i>	University of Maryland Law School University of Baltimore School of Law	MAJ William S. Little Stark & Little 1500 Tower Building Baltimore & Guilford Streets Baltimore, MD 21202	301-539-3545
MASSACHUSETTS			
<i>Boston</i>	New England School of Law Boston College Law School Suffolk University Law School Boston University Law School	CPT Kevin J. O'Dea Middlesex City DA Office Cambridge, MA 02138	617-494-4061
<i>Cambridge</i>	Harvard Law School	CPT Kevin J. O'Dea Middlesex City DA Office Cambridge, MA 02138	617-494-4061
MICHIGAN			
<i>Ann Arbor</i>	University of Michigan Law School	CPT Frederick J. Amrose 16075 Kinross Birmingham, MI 48009	313-961-0473
<i>Detroit</i>	University of Detroit School of Law	CPT Frederick J. Amrose 1732 Buhl Building Detroit, MI 48226	313-961-0473
	Wayne State University Law School	MAJ Estes D. Brockman 21519 Virginia Drive Southfield, MI 48076	313-256-2519
<i>Lansing</i>	Thomas Cooley School of Law	1LT John Hays Farhat, Burns & Story, P.C. Thomas More Building 417 Seymour Avenue Lansing, MI 48933	517-372-4220
MINNESOTA			
<i>Minneapolis</i>	University of Minnesota Law School	MAJ Thomas J. Lyons 580 Northwestern National Bank St. Paul, MN 55101	612-291-1611

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
<i>St. Paul</i>	William Mitchell College of Law Hamline University School of Law	MAJ Thomas J. Lyons 580 Northwestern National Bank St. Paul, MN 55101	612-291-1611
MISSISSIPPI			
<i>University</i>	University of Mississippi School of Law	COL Aaron S. Condon School of Law University of Mississippi University, MS 38677	601-232-7421
NEBRASKA			
<i>Lincoln</i>	University of Nebraska Law School	CPT Walter E. Zink II Suite 1200 Sharp Building Lincoln, NB 68508	402-474-1075
NEW HAMPSHIRE			
<i>Manchester</i>	Franklin Pierce Law Center	MAJ Richard L. Burstein 30 South Main Randolph, VT 05060	802-728-9788
NEW JERSEY			
<i>Newark</i>	Rutgers University School of Law	LTC Joseph S. Ziccardi Suite 710, Two Penn Center Plaza 15 and John F. Kennedy Boulevard Philadelphia, PA 19102	215-564-1063
		MAJ James B. Smith Smith & Dembling 266 Lake Avenue Metuchen, NJ 08840	201-494-8404
	Seton Hall University School of Law	LTC Joseph S. Ziccardi Suite 710, Two Penn Center Plaza 15 and John F. Kennedy Boulevard Philadelphia, PA 19102	215-564-1063
NEW YORK			
<i>Albany</i>	Albany Law School Union University	COL Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
<i>Brooklyn</i>	Brooklyn Law School	MAJ James E. O'Donnell, Jr. District Attorney's Office Kings County Municipal Building Brooklyn, NY 11210	212-834-5000
<i>Buffalo</i>	State University of New York at Buffalo	WO Joseph G. Kihl 3141 South Park Avenue Lackawanna, NY 14218	716-825-0850
<i>Hempstead</i>	Hofstra University School of Law	COL Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
<i>Jamaica</i>	St. John's University School of Law	COL Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
<i>New York</i>	Columbia University School of Law	COL Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
	Columbia University School of Law	MAJ Stephen Davis 67 Wall Street New York, NY 10005	212-422-1550
	Fordham University School of Law	COL Thomas J. Newman 99 Washington Avenue Suffern, NY 10901	914-357-2660
	New York University Law School	MAJ Basil N. Apostle 2573 Steinway Street Astoria, NY 11103	212-726-7070
NORTH DAKOTA			
<i>Grand Forks</i>	University of North Dakota School of Law	CPT Murray G. Sagsveen Executive Office State Capitol Bismarck, ND 58505	701-224-2200
OHIO			
<i>Columbus</i>	Ohio State University Law School	COL Charles E. Brant The Midland Building 250 East Broad Street Columbus, Ohio 43215	614-221-2121
	Capitol University Law School	COL Charles E. Brant The Midland Building 250 East Broad Street Columbus, Ohio 43215	614-221-2121

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
OKLAHOMA			
<i>Norman</i>	Oklahoma City University School of Law	LTC Stewart Hunter Juvenile Judge Oklahoma City Court House Oklahoma City, OK 73102	405-236-2727
<i>Oklahoma City</i>	University of Oklahoma College of Law	LTC Charles Elder Professional Building Box 667 Purcell, OK 73080	405-527-2137
<i>Tulsa</i>	University of Tulsa College of Law	CPT William W. Hood, Jr. Center Office Building Tulsa, OK 73101	918-583-5825
OREGON			
<i>Eugene</i>	University of Oregon School of Law	LTC Gary E. Lockwood 305 Cascade Hood River, OR 97031	503-386-1811
<i>Salem</i>	Willamette University School of Law	LTC Gary E. Lockwood 305 Cascade Hood River, OR 97031	503-386-1811
PENNSYLVANIA			
<i>Carlisle</i>	Dickinson School of Law	LTC Joseph S. Ziccardi Suite 710 Two Penn Center Plaza 15 and John F. Kennedy Blvd Philadelphia, PA 19102	215-564-1063
	Temple University School of Law	LTC Joseph S. Ziccardi Suite 710, Two Penn Center Plaza 15 and John F. Kennedy Blvd Philadelphia, PA 19102	215-564-1063
<i>Villanova</i>	Villanova University School of Law	LTC Joseph S. Ziccardi Suite 710, Two Penn Center Plaza 15 and John F. Kennedy Blvd Philadelphia, PA 19102	215-564-1063

	<i>Institution</i>	<i>Liaison Officer and Address</i>	<i>Telephone Number</i>
PUERTO RICO			
<i>Ponce</i>	Catholic University of Puerto Rico Law School	CAPT Charles A. Cuprill 15th L URB Jardines FA Ponce, Puerto Rico 00731	809-842-0379
<i>San Juan</i>	University of Puerto Rico Law School Inter-American University Law School	MAJ Otto J. Riefkohl II P.O. Box 4867 Old San Juan, Puerto Rico 00936	809-763-3313
TEXAS			
<i>Austin</i>	University of Texas Law School	MAJ John M. Compere 2000 Frost Bank Tower San Antonio, TX 78205	512-225-3031
<i>Dallas</i>	Southern Methodist University School of Law	CPT Evan Thomas 3922 South Walton Walker Dallas, TX 75222	214-330-3642
<i>Houston</i>	Bates College of Law	COL John Jay Douglass (Ret) College of Law University of Houston Houston, TX 77004	713-749-1571
<i>Lubbock</i>	Texas Tech University School of Law	CPT David C. Cummins School of Law, Texas Tech University P.O. Box 4030 Lubbock, TX 79409	806-742-3785
<i>San Antonio</i>	St. Mary's University School of Law	MAJ John M. Compere 2000 Frost Bank Tower San Antonio, TX 78205	512-225-3031
VERMONT			
<i>South Royalton</i>	Vermont Law School	MAJ Richard L. Burstein 305 Main Street Randolph, VT 05060	802-728-9788
VIRGINIA			
<i>Lexington</i>	Washington and Lee College of Law	CPT Lee B. Liggett Office of the General Counsel VPI and State University Blacksburg, VA 24061	703-951-6293

WISCONSIN

<i>Madison</i>	University of Wisconsin Law School	LTC Richard Z. Kabaker P.O. Box 2038 Madison, WI 53706	608-257-7181
<i>Milwaukee</i>	Marquette University Law School	LTC Richard Z. Kabaker P.O. Box 2038 Madison, WI 53706	608-257-7181

**WASHINGTON,
D.C.**

American University Law School	LTC W. Peyton George 1701 Pennsylvania Avenue, N.W. Suite 350 Washington, D.C. 20006	202-293-5325
George Washington University National Law Center	COL Francis S. Elliott 12th and Pennsylvania Avenue Washington, D.C.	202-566-9653
Georgetown University Law Center	COL Stanley J. Glod 1735 K Street N.W., Suite 1200 Washington, D.C. 20006	202-467-5424

2. Mobilization Designee Vacancies

A number of installations have recently had new mobilization designee positions approved and applications may be made for these and other vacancies which now exist. Interested JA Reservists should submit Application for

Mobilization Designation Assignment (DA Form 2976) to The Judge Advocate General's School, ATTN: Lieutenant Colonel William Carew, Reserve Affairs Department, Charlottesville, Virginia 22901. Current Positions available are as follows:

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	03A	02	01	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	04	04	Trail Counsel	5th Inf	Ft Polk
CPT	03B	05	02	Defense Counsel	USA Garrison	Ft Devens
CPT	03C	02	01	Asst SJA	101st ABN Div	Ft Campbell
CPT	03D	01	01	Asst JA Claims Officer	USA Garrison	Ft Devens
CPT	03B	01	04	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	02	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	01	02	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	04	03	Trial Counsel	5th Inf	Ft Polk
CPT	03B	04	02	Trial Counsel	5th Inf	Ft Polk
CPT	03B	03	02	Trial Counsel	USA Garrison	Ft Devens
CPT	03B	03	02	Def Counsel	5th Inf	Ft Polk
CPT	03B	03	03	Def Counsel	5th Inf	Ft Polk

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	03B	02	04	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	01	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	04	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	03	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	03	01	Defense Counsel	5th Inf	Ft Polk
CPT	03B	01	03	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03C	06	01	Admin Law Off	USA Garrison	Ft Devens
CPT	03D	05	01	Asst SJA-DC	USA Garrison	Ft Stewart
CPT	03B	02	03	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03E	03	01	Asst SJA	USA Garrison	Ft Stewart
CPT	52B	03	01	Asst SJA-DC	USA Garrison	Ft Stewart
CPT	03B	02	02	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03D	05	02	Asst SJA - DC	USA Garrison	Ft Stewart
CPT	03B	04	01	Trial Counsel	5th Inf	Ft Polk
CPT	52C	01	01	Asst SJA	USA Garrison	Ft Stewart
CPT	62B	05	01	Asst Admin Law Off	USA Forces Cmd	Ft McPherson
CPT	62C	05	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson
CPT	03B	03	04	Def Counsel	5th Inf	Ft Polk
CPT	50C	04	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson
LTC	62F	03	01	Labor Rel Atty	USA Forces Cmd	Ft McPherson
LTC	03	01	01	Staff JA	101st ABN Div	Ft Campbell
LTC	03	02	01	SJA	5th Inf	Ft Polk
MAJ	03A	01	01	Ch Trial Counsel	101st ABN Div	Ft Campbell
MAJ	03C	01	01	Asst SJA	5th Inf	Ft Polk
MAJ	03C	01	02	Asst SJA	5th Inf	Ft Polk
MAJ	03B	02	01	Ch Trial Counsel	5th Inf	Ft Polk
MAJ	03B	01	01	Ch Def Counsel	5th Inf	Ft Polk
MAJ	03B	01	01	Ch Def Counsel	101st ABN Div	Ft Campbell
MAJ	03E	01	01	Chief	USA Garrison	Ft Stewart
MAJ	03C	01	01	Ch Admin Law Br	101st ABN Div	Ft Campbell
MAJ	03C	02	01	Ch Admin Law Off	USA Garrison	Ft Devens
MAJ	62E	03	01	Asst Res Aff Off	USA Forces Cmd	Ft McPherson
MAJ	03C	01	01	Ch Leg Asst Off	USA Garrison	Ft Devens
MAJ	03B	01	01	Ch Mil Justice Br	USA Garrison	Ft Devens
MAJ	62D	04	01	Fiscal Law Off	USA Forces Cmd	Ft McPherson
MAJ	62C	04	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson

Additional positions will be approved in the near future. Judge Advocates wishing to be considered for *any* available Mob Des position should so annotate DA Form 2976.

JUDICIARY NOTES

U.S. Army Judiciary

ADMINISTRATIVE NOTE

Reports to Regulatory Law Office

In accordance with AR 27-40, all judge advocates and legal advisors are reminded to con-

tinue to report to Regulatory Law Office (JALS-RL) the existence of any action or proceeding involving communications, transportation, or utility services and environmental matters which affect the Army.

As reflected in message of 13 Jan 79, current address for Regulatory Law Office is USALSA, ATTN: JALS-RL, Falls Church, VA 22041. Current commercial telephone number is area code 202-756-2015, AUTOVON 289-2015.

JUDICIARY NOTE

Vacation of Suspended Sentences

Several recent cases indicate that authorities seeking to vacate the suspension of sentences imposed by courts-martial are not considering carefully the strictures of *United States v. Bingham*, 3 M.J. 119 (C.M.A. 1977).

Article 72, Uniform Code of Military Justice, requires that the special court-martial convening authority with jurisdiction over a probationer hold a hearing before vacating any sentence by special court-martial which as approved includes a bad-conduct discharge or any sentence by general court-martial. A similar requirement is established in paragraph 2-36, AR 27-10, for the vacation of any suspended sentence to confinement. Further, the United States Court of Military Appeals has suggested that a hearing is constitutionally required as a predicate for vacation of the suspension of any sentence emanating from "a proceeding fairly termed a criminal trial . . ." *United States v. Bingham*, *supra*, 3 M.J. at 122, n.7.

The *Bingham* Court also set forth general requirements for the conduct of proceedings to vacate the suspension of sentences. Among those requirements were the following: the special court-martial convening authority (unless individually disqualified for some reason) must personally conduct the hearing authorized by Article 72 or its equivalent, and the authority who makes the final decision to vacate the suspension must execute a written statement as to the evidence relied on and the reasons for vacating the suspension. The *Bingham* Court had no difficulty, however, with the proposition that under Article 72 the hearing function (exercised by the special court-martial convening authority) could be separate from the final decision making function (exercised by the general court-martial convening authority). It

should be noted that for a special court-martial sentence that does not involve an approved bad-conduct discharge, the decision to vacate the suspension of any portion of that sentence may be made by a special court-martial convening authority. Article 72, Uniform Code of Military Justice.

It appears that prudence dictates a hearing before a competent court-martial convening authority in *any* case in which it is sought to vacate the suspension of any portion of a sentence by special or general court-martial. While the final decision to vacate the suspension may be taken by a convening authority superior to the one who held the hearing, care should be taken that the authority making the decision provides written reasons for the decision. This may be done by adopting, *in toto* or in part, written reasons set forth by the authority who conducted the hearing; however, such adoption should be explicit and in writing.

DIGESTS OF ARTICLE 69, UCMJ, APPLICATIONS

1. In *Eubank*, SPCM 1978/4269, The Judge Advocate General considered a contention that the court-martial was without jurisdiction to try the accused because the convening authority did not personally detail the military judge or counsel in accordance with the holding of *United States v. Newcomb*, 5 M.J. 4 (C.M.A. 1978). The applicant presented an affidavit from his trial defense counsel in which it was asserted that the military judge, the trial counsel, and the defense counsel were all "selected" by persons other than the convening authority. No statements from the convening authority or the staff judge advocate, the two persons uniquely situated to know the facts, were presented, and there was no averment that the affiant was privy to discussions between the convening authority and his staff judge advocate.

It was determined that the applicant had failed to carry his burden to "pierce" the command line. Further, the contention was affirmatively established to be without factual foundation by a copy of a document existing *dehors* the record. The document, dated prior to the

date of trial and signed by the convening authority, expressly detailed the military judge, the trial counsel, and the defense counsel to serve in the *Eubank* case. Relief was denied.

2. In *Robinson*, SPCM 1978/4283, The Judge Advocate General denied relief from a finding of guilty as to a violation of Article 134, U.C.M.J., by orally communicating to SP4 L, a female not his wife or other family relation, certain indecent language.

The evidence at trial established that SP4 L and PV2 R were performing duties as charges of quarters at a dental clinic on post when the alleged offense occurred. SP4 L was married, but not to PV2 R who knew that she was married. During the night while both were still on duty but had retired for the night, PV2 R communicated the alleged language to SP4 L who indignantly rejected PV2 R's proposition.

With regard to his conviction, PV2 R contended, *inter alia*, that the offense of communication of indecent language to a female is unconstitutional as a violation of the equal protection component of the due process clause of the Fifth Amendment to the United States Constitution. He further contended that the proscription of indecent, insulting and obscene language under Article 134, U.C.M.J., is overbroad because it encompasses both protected and unprotected speech.

He also contended that the military definition of obscenity does not comport with the requirements of *Miller v. California*, 413 U.S. 15 (1973).

With regard to the equal protection contention, a review of the case law indicates that both males and females can be the victims of the offense of communicating indecent or obscene language. See *United States v. Jackson*, 12 C.M.R. 403 (A.B.R. 1953), *pet. denied*, 13 C.M.R. 142 (C.M.A. 1953), where the victim was an enlisted man. Communication of such language to either male or female servicemembers may in appropriate circumstances be prejudicial to good order and discipline or service discrediting.

Article 134 is on its fact gender neutral. It prohibits all conduct that is likely to bring the service into disrepute or is directly and palpably prejudicial to good order and discipline. *United States v. Sadinsky*, 14 U.S.C.M.A. 563, 34 C.M.R. 343 (1964). Both males and females may violate Article 134 and both may be victims of violations of that Article. Since both men and women can violate the statute and be subject to like punishment, no denial of equal protection would result even if only women were protected by the statute. See *United States v. Green*, 554 F. 2d 372 (9th Cir. 1977); *United States v. Garrett*, 521 F. 2d 444 (8th Cir. 1975); *United States v. Caesar*, 368 F. Supp. 368 (E.D. Wisc. 1973), *aff'd sub. nom. United States v. Harden*, 519 F. 2d 1405 (7th Cir. 1975).

Since the accused was charged with communicating indecent and not insulting language, he did not have standing to challenge the inclusion of insulting language in the prescriptions of Article 134. See *Parker v. Levy*, 427 U.S. 733 (1974). Further, military case law requires that the language communicated be actually obscene for Article 134 to be violated. *United States v. Linyear*, 3 M.J. 1027 (N.C.M.R. 1977).

The military definition of obscenity comports with the definition of obscenity in *Miller v. California*, *supra*. See *United States v. Tindoll*, 16 U.S.C.M.A. 194, 36 C.M.R. 350 (1966); *United States v. Linyear*, *supra*; *United States v. Wainwright*, 42 C.M.R. 997 (A.F.C.M.R. 1970), *aff'd*, 43 C.M.R. 23 (C.M.A. 1970); *United States v. Simmons*, 27 (CR 654 (A.B.R. 1959), *pet. denied*, 27 C.M.R. 512 (C.M.A. 1959).

Under both *Miller* and the military cases the language communicated must appeal to the prurient interest and must describe sexual conduct in a manner that exceeds contemporary community standards of decency. Military cases recognize that the motive and purpose of the speaker are important.

3. In *Roberts*, SUMCM 1978/4287, The Judge Advocate General noted that the record of a

summary court-martial trial did not contain any notation that the accused was advised prior to trial of his right to consult with independent counsel nor any notation to the effect that the accused did or did not consult with independent counsel prior to making his decision not to object to trial by summary court-martial. Such notations should be made. See HQDA (DAJA-CL) message 111230 Nov 77.

It was determined that the absence of such notations was not a prejudicial or jurisdictional error. In this case, it was clearly established by matters *dehors* the record of trial that the accused had been informed of his right to consult with counsel. Further, it was determined that the mandate of *United States v. Booker*, 5 M.J. 238 (C.M.A. 1977), was an exclusionary rule and not a substantive requirement. Relief was denied.

4. In *Ned*, SPCM 1978/4310, The Judge Advocate General considered a contention that the military judge had erroneously denied a motion embodying a defense request for a witness. A request for the witness had been submitted prior to trial; efforts to locate the witness (a civilian who had left Germany, the situs of the offense and of trial, for the United States after the occurrence of the offenses) proved fruitless.

The Government has no general duty to locate witnesses for the defense. Further, there was no authority to subpoena the witness under the circumstances of the case; the appearance of the witness at trial in Germany was dependent upon her willingness to so appear, and the defense made no showing of such willingness. Accordingly, it was determined that the military judge did not error in denying the defense motion. It was also determined that, in any event, there was no fair risk of prejudice under the circumstances of the case.

The contention was also made that the military judge erred in failing to give a defense-requested instruction on an issue of divestiture of rank which the defense argued had been raised by the evidence in connection with the offenses (three specifications of willful disobedience of a lawful command from the ac-

cused's superior commissioned officer). It was determined that the so-called defense of divestiture, which has been recognized as a defense to the offense of assaulting a superior commissioned officer, was not a defense to the offense of disobedience of a lawful order, at least not where the alleged misconduct of the officer extended only to his choice of words and mode of address. The defense evidence showed only that the officer repeated his order after a few seconds and "showed hostility in his facial expression and voice tone." Relief was denied.

5. In *Pohlman*, SPCM 1978/4318, The Judge Advocate General considered a contention that the evidence was insufficient to support the findings of guilty as to a period of AWOL. The accused had been charged with a period of AWOL of approximately seven-and-a-half months duration (from 2 August 1977 until 16 March 1978). The military judge, trying the case alone, found him guilty of a period of AWOL covering, approximately, the last two weeks of the alleged period (or from 1 March 1978 until 15 March 1978). It was contended on "appeal" that there was no basis in fact for finding 1 March 1978 to be the inception date for the period of AWOL.

The accused had received orders transferring him from one battalion to another at the same military reservation. He had in fact "signed in" at the "new" battalion. Some procedural difficulties arose necessitating that new orders be cut with a new reporting date; the accused was informed of this. New orders were in fact cut on 29 July 1977, amending the accused's reporting date to 1 August 1977. There was no evidence that a copy of the new orders was ever delivered to the accused.

The evidence was in conflict as to what the accused did during the ensuing seven-and-a-half months. The defense attempted to paint a picture of daily attempts by the accused to locate his orders and of regular performance of duties by the accused at his "old" battalion. The Government, on the other hand, attempted to paint a picture of the accused tending to his own affairs and making no attempt to ascertain his place of assignment. On balance, it ap-

peared that the accused was in both battalion areas at various times and that the accused did make some effort to ascertain his status, but that his performance of military duties and quest for his orders were considerably less diligent and regular than was depicted by the defense.

The military judge properly found that the accused had an honest and reasonable mistake of fact as of 2 August 1977 concerning his assignment to the "new" battalion. He also properly found that the mistake of fact eventually ceased to be honest and reasonable. The day of 1 March 1978 was properly selected as the inception date because it was the first day as to which the military judge had no reasonable doubt that the mistake of fact eventually ceased to be honest and reasonable. The day of 1 March 1978 was properly selected as the inception date because it was the first day as to which the military judge had no reasonable doubt that the accused was not acting pursuant to an honest and reasonable mistake of fact. The selection of 1 March 1978 was proper because there was evidence of record that the accused had then ceased to make any significant inquiries concerning his status; that the "old" battalion was then packing for a move from CONUS to Germany; and that the accused knew that the "old" battalion's departure was imminent and that he would not be going.

(The termination date of the period of AWOL was properly found by the court-martial to be 15 March 1978 because the accused's "new" commander spoke to the accused on that date and told him to report to the "new" unit on the following morning, with which directive the accused complied.) Relief was denied.

6. In *Apodaca*, SPCM 1978/4320 and *Putnam*, SPCM 1978/4304, The Judge Advocate General considered post-trial attempts to impeach the verdict or sentence of the courts-martial in question.

In *Apodaca*, the accused submitted an affidavit to the effect that he stood outside the room where the court members were deliberating on sentence and overheard one court

member say that the convening authority "won't be satisfied with that."

In *Putnam*, the trial defense counsel submitted an affidavit to the effect that several court-martial members told him that an initial ballot resulted in a finding of not guilty, a voice vote was then taken by which it was determined to take a second ballot, and the second ballot resulted in a finding of guilty.

It was determined that the general rule that affidavits should not be accepted to impeach a court's verdict, unless they relate to extraneous influences, should govern these cases. No such extraneous influence was apparent in either *Putnam* or *Apodaca*.

To the extent that the remark allegedly made in *Apodaca* might be viewed as representing extraneous influence exercised by the convening authority, the accused's affidavit, taken at face value, was insufficient to establish such misconduct. Relief was denied.

7. In *Snyder*, SPCM 1978/4331, The Judge Advocate General considered a contention that a chain of custody document and laboratory report pertaining to a bag of marijuana were improperly received into evidence. The applicant objected to the exhibits on several bases.

First, he argued that the chain of custody document was prepared principally for prosecution; he relied upon the testimony of a Government witness that "the form is used to potentially prosecute." It was determined that such testimony was not conclusive and that the evidence as a whole demonstrated that the document was properly admissible as a business entry.

Second, the applicant complained that no witness testified that he was familiar with the signature of the chemist whose purported signature appeared on the laboratory report. It was determined that the report had been properly authenticated by a witness competent to show that it came through a reliable source (see paragraph 144, MCM 1969 (rev.); *United States v. Evans* 21 U.S.C.M.A. 579, 45 C.M.R. 353 (1977)) and that a proper foundation had

therefore been laid for admitting the report. It was noted that the trial defense counsel expressly declined to request the chemist as a witness.

Finally, the applicant objected to the document on the basis of the comment in *United States v. Nault*, 4 M.J. 318 (C.M.A. 1978), n.8, to the effect that, "[W]e cannot formulate any presumption [of regularity of systematic handling] regarding the performance of the prosecutorial custodians of real evidence in the absence of the proper demonstration." It was noted, in this connection, that the U.S. Army Court of Military Review has questioned Chief Judge Fletcher's "gratuitously created rule" in *Nault* and preferred "to await the determination of a case by that court in which this issue is squarely presented, fully argued, and specifically decided" before applying it. *United States v. Porter*, 5 M.J. 759 (A.C.M.R. 1978), *pet. granted*, 6 M.J. 35 (C.M.A. 1978).

It was determined that until a decision in *Porter* is rendered by the United States Court of Military Appeals the test set forth in *United States v. Jenkins*, 5 M.J. 905 (A.C.M.R. 1978) should be followed. That is:

The Government in order to satisfy its obligations as to a proffered [laboratory] examination need not exclude all possibilities of tampering. They need only satisfy the trial judge that in reasonable probability the article has not been changed in any important respect.

United States v. Jenkins, *supra*, 5 M.J. at 907. That standard was met in the instant case. Relief was denied.

8. In *Cordova*, SPCM 1978/4332, The Judge Advocate General considered contentions that the accused was improperly denied the services of the individual defense counsel requested by him and that a motion for a change of venue should have been granted because of adverse pretrial publicity.

The accused was tried at Fort Dix, New Jersey. He submitted a request for CPT M to represent him. CPT M was stationed at a military

reservation in Texas. He was determined by competent authority not to be reasonably available, the matter was appealed to the next higher commander, and the appeal was denied. The matter was renewed by motion before the military judge; the motion was denied.

The reasons cited for the determination that CPT M was not reasonably available were, in substance, that CPT M's workload was substantial, that it could not be shifted to other counsel because the command had an insufficient number of counsel available, and that it could not be deferred because of certain circumstances. (A witness in a case being investigated by CAPT M was due to be transferred in the near future. Also CAPT M's duties included responsibility for the legal assistance needs of the members of three battalion-size units that were scheduled to depart for Europe within the next few months; there was therefore a significant volume of legal assistance business that needed to be completed within the period before the departure of the units.) It was determined that the military judge properly found that the decisions made by competent authorities that CPT M was not reasonably available to act as counsel in this case were properly made.

The alleged offenses for which the accused was tried (trainee abuse) received some publicity in the local press prior to trial. The defense counsel made a motion for a change of venue; the motion was denied. Some court members later stated on voir dire that they had been exposed to some of this pretrial publicity.

It was noted that:

Proof that a particular case has been widely publicized, standing by itself, does not establish that a court-martial has been influenced by such publicity. *US v. Vigneault*, 3 U.S.C.M.A. 247, 12 C.M.R. 3 (1953). Further, the mere fact that court-martial members have heard or read about the case they are assigned to try, standing alone, is not a sufficient basis for a change of venue so long as the members will not be influenced. *US v. Swenson*, 35 C.M.R. 645 (A.B.R. 1969), *pet den.*, 15 U.S.C.M.A.

694, 36 C.M.R. 541 (1965). *US v. Smith*, 1 M.J. 1204, 1207-1208 (N.C.M.R. 1977).

The decision whether or not to grant a motion for a change of venue rests within the sound discretion of the military judge to whom the motion is addressed. *United States v. Smith, supra*; *United States v. Carey*, 1 M.J. 761 (A.F.C.M.R. 1975). His decision is not to

be disturbed on appeal unless he has abused his discretion. *United States v. Carter*, 9 U.S.C.M.A. 108, 25 C.M.R. 370 (1958). In accordance with the foregoing principles, it was determined that the military judge in the instant case had not abused his discretion in denying the motion for a change of venue. Relief was denied.

CLE NEWS

1. Civilian Sponsored CLE Courses.

For further information on civilian courses, please contact the institution offering the course, as listed below:

AAJE: American Academy of Judicial Education, Suite 539, 1426 H Street NW, Washington, DC 20005. Phone: (202) 783-5151

ALI-ABA: Donald M. Maclay, Director, Office of Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104. Phone: (215) 387-3000.

FBA (FBA-BNA): Conference Secretary, Federal Bar Association, Suite 420, 1815 H Street NW, Washington, DC 20006. Phone: (202) 638-0252.

FPI: Federal Publications, Inc., Seminar Division Office, Suite 500, 1725 K Street NW, Washington, DC 20006. Phone: (202) 337-7000.

GWU: Government Contracts Program, George Washington University, 2000 H Street NW, Rm. 303 D2, Washington DC 20052. Phone: (202) 676-6815.

ICM: Institute for Court Management, Suite 210, 1624 Market St., Denver, CO 80202. Phone: (303) 543-3063.

NCDA: National College of District Attorneys, College of Law, University of Houston, Houston, TX 77004. Phone: (713) 749-1571.

NJC: National Judicial College, Reno, NV 89557. Phone: (702) 784-6747.

NPI: National Practice Institute, 861 West Butler Square, Minneapolis, MN 55403. Phone: 1-800-328-4444 (In MN call (612) 338-1977).

PLI: Practising Law Institute, 810 Seventh Avenue, New York, NY 10019. Phone: (212) 765-7500.

APRIL

1-5: NCDA, Organized Crime, Part II, Houston, TX.

2-4: FPI, Research and Development Contracting, Tropicana Hotel, Las Vegas, NV. Cost: \$525-550.

2-6: GWU, Cost Reimbursement Contracting, George Washington University, Washington DC. Cost: \$500-525.

4-6: FPI, Government Contract costs, Sheraton National Hotel, Arlington VA. Cost: \$525-550.

4-6: PLI, Fundamental Concepts of Estate Planning, New York Sheraton Hotel, New York. Cost: \$250.

5-6: PLI, Land Use Planning and Litigation, Little America Westgate Hotel, San Diego, CA. Cost: \$185.

5-6: PLI, Usury Laws and Modern Business Transactions, Beverly Hilton Hotel, Los Angeles, CA. Cost: \$200.

5-7: ALI-ABA, The New Federal Bankruptcy Code on Video Tape will be shown at the following locations: Cleveland, OH; Cranford, NJ; Denver, CO; Indianapolis, IN; Milwaukee, WI; North Haven, CT; Philadelphia, PA; Pittsburgh, PA; Seattle, WA; Tucson, AR. Cost: \$175.

5-6: PLI, Equipment Leasing, Halloran House Hotel, New York City. Cost: \$200.

6: NPI, Kaplan On Evidence, Sands Hotel, Las Vegas, NV.

7: NPI, Kaplan On Evidence, Brown Palace Hotel, Denver, CO.

19-21: FBA, Administrative Law and Federal Trial Practice, Cherry Hill Hyatt Hotel, Cherry Hill, NJ.

19-20: PLI, Risk Management for Hospitals and Health Care Institutions, Hyatt Regency Hotel, San Francisco, CA. Cost: \$200.

20: NPI, UCC Update, Stouffer's Hotel, Louisville, KY.

21: NPI, UCC Update, International Inn, Washington, DC.

22-25: ICM, Management of Criminal Cases, Denver, CO.

22-26: NCDA, Trial Techniques, Boston, MA.

22-27: NJC, Alcohol and Drugs (for judges), University of Nevada, Reno, NV. Cost: \$300.

25

23-25: AAJE, Criminal Law II: Pretrial Procedures, Confession and Identification (for judges), Arizona State Univ., Tempe, AZ. Cost: \$200.

23-24: PLI, Federal Civil Rights Litigation, New York Hilton Hotel, New York City. Cost: \$160.

25-26: FBA, Criminal Law Seminar, National Lawyers Club, Washington, D.C.

26-28: AAJE, Evidence II: Cross-examination, Competency and Privilege (for judges), University of Nevada, Reno, NV. Cost: \$200.

26-27: PLI, Equipment Leasing, Little America Westgate Hotel, San Diego, CA. Cost: \$200.

26-27: PLI, Ninth Annual Employee Benefits Institute, Biltmore Hotel, New York City. Cost: \$185.

26-27: PLI, Use of Trusts in Estate Planning, New Orleans Hilton Hotel, New Orleans, LA. Cost: \$185.

26-27: PLI, Usury and Modern Business Transactions, Biltmore Hotel, New York City. Cost: \$200.

27: NPI, UCC Update, Everglades Hotel, Miami, FL.

28: NPI, UCC Update, Marriott Hotel, Atlanta, GA.

29-4 May: NCDA, Prosecutor's Office Administrator Course, Part III, Houston, TX.

29-4 May: NJC, Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

30-2 May: FBA, Tax Law Conference, Mayflower Hotel, Washington, DC.

30-2 May: FPI, Government Contract Costs, Sheraton National Hotel, Washington, DC. Cost: \$525-550.

30-4 May: GWU, Patents and Technical Data, GWU Library, Washington, DC. Cost: \$425.

MAY

2-4: PLI, Fundamental Concepts of Estate Planning, Hyatt Union Square Hotel, San Francisco, CA. Cost: \$250.

4-5: Construction Contracting in the Middle East: Problems and Solutions, Washington, DC.

6-24: NJC, General Jurisdiction (for judges), University of Nevada, Reno, NV. Cost: \$600.

6-11: NJC, Sentencing Felons (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

10-11: PLI, Equipment Leasing 1979, Atlanta Hilton Hotel, Atlanta, GA. Cost: \$200.

10-11: PLI, Land Use Planning and Litigation, New York Sheraton Hotel, New York City. Cost: \$185.

10-11: PLI, Use of Trusts in Estate Planning, Olympic Hotel, Seattle, WA. Cost: \$185.

14-15: PLI, Federal Civil Rights Litigation, Fairmont Hotel, New Orleans, LA. Cost: \$160.

17-18: PLI, Risk Management for Hospitals and Health Care Institutions, Marriott Hotel, New Orleans, LA. Cost: \$200.

20-25: NJC, Criminal Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

24-25: FBA, Openness in Government V, The Mayflower Hotel, Washington, DC.

31-2 June: ALI-ABA, Energy Law, Washington, DC.

JUNE

1-2: FBA, Conference on Federal Trial Practice, Washington, DC.

10-16: NCDA, Executive Prosecutor Course, Houston, TX.

14-16: ALI-ABA, The New Federal Bankruptcy Code, San Francisco, CA.

17-13: NJC, General Jurisdiction (for judges), University of Nevada, Reno, NV. Cost: \$750.

17-29: NJC, The Judge and the Trial (graduate, for judges), University of Nevada, Reno, NV. Cost: \$450.

18-22: AAJE, Practicalities of Judging, Jurisprudence and the Humanities, Cambridge, MA.

18-27: AAJE, Seminar on the British Justice System, Birmingham, England.

24-29: NJC, Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

24-29: ALI-ABA, Estate Planning in Depth, Madison, WI.

24-29: ALI-ABA, Trial Evidence in Federal and State Courts: A Clinical Study of Recent Developments, Madison, WI.

24-29: NJC, Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

2. TJAGSA CLE Courses

April 2-6: 46th Senior Officer Legal Orientation (5F-F1).

April 9-12: 9th Fiscal Law (5F-F12).

April 9-12: 2d Litigation (5F-F29).

April 17-19: 3d Claims (5F-F-26).

April 23-27: 9th Staff Judge Advocate Orientation (5F-F52).

April 23-May 4: 80th Contract Attorneys' (5F-F10).

May 7-10: 6th Legal Assistance (5F-F23).

May 14-16: 3d Negotiations (5F-F14).

May 14-15: 1st U.S. Magistrate Court Workshop

May 21-June 8: 18th Military Judge (5F-F33).

May 30-June 1: Legal Aspects of Terrorism.

June 11-15: 47th Senior Officer Legal Orientation (5F-F1).

June 18-29: JAGSO (CM Trial).

June 21-23: Military Law Institute Seminar.

July 9-13 (Contract Law) and July 16-20 (Int. Law): JAOGC/CGSC (Phase VI Contract Law) Int. Law.

July 9-20: 2d Military Administrative Law (5F-F20).

July 16-August 3: 19th Military Judge (5F-F33).

July 23-August 3: 81st Contract Attorneys' Course (5F-F10).

August 6-October 5: 90th Judge Advocate Officer Basic (5-27-C20).

August 13-17: 48th Senior Officer Legal Orientation (5F-F1).

August 20-May 24, 1980: 28th Judge Advocate Officer Graduate (5-27-C22).

August 27-31: 9th Law Office Management (7A-713A).

September 17-21: 12th Law of War Workshop (5F-F42).

September 28-28: 49th Senior Officer Legal Orientation (5F-F1).

3. TJAGSA Course Prerequisites and Substantive Content.

GENERAL INFORMATION

The Judge Advocate General's School is located on the north grounds of the University of Vir-

ginia at Charlottesville. The mission of the School is to provide resident and nonresident instruction in military law. The School's faculty is composed entirely of military attorneys.

THE ACADEMIC DEPARTMENT

The Academic Department develops and conducts resident and nonresident instruction. The organization of the Department includes Criminal Law, Administrative and Civil Law, International Law and Contract Law Divisions. Within the Department, the Nonresident Instruction Branch administers the School's correspondence course program and other nonresident instruction.

COURSES OFFERED

The Judge Advocate General's School offers a total of 31 different resident courses. The official source of information concerning courses of instruction at all Army service schools, including the Judge Advocate General's School, is the U.S. Army Formal Schools Catalog (DA Pam 351-4). Attendance by foreign military personnel is governed by applicable Army regulations. Quotas for most courses offered at The Judge Advocate General's School may be obtained through usual unit training channels. Exceptions to this policy are the Judge Advocate Officer Basic Course, Judge Advocate Officer Graduate Course, and Staff Judge Advocate Orientation Course, quotas for which are controlled by the Personnel, Plans and Training Office in the Office of The Judge Advocate General; the Military Judge Course, quotas for which are controlled by the Army Judiciary in Washington, D.C.; and the Senior Officer Legal Orientation Course, quotas for which are controlled by MILPERCEN. Inquiries concerning quotas and waivers of prerequisites should be directed to Commandant, The Judge Advocate General's School, U.S. Army, Charlottesville, Virginia 22901, ATTENTION: Academic Department.

TABLE OF CONTENTS

COURSE NUMBER	TITLE
5-27-C20	Judge Advocate Officer Basic
5-27-C22	Judge Advocate Officer Graduate

COURSE NUMBER	TITLE
5F-F1	Senior Officers' Legal Orientation
5F-F10	Contract Attorneys' Course
5F-F11	Contract Attorneys' Advanced Course
5F-12	Fiscal Law
5F-F13	Allowability of Contract Costs
5F-F14	Negotiations
5F-F15	Contract Attorneys' Workshop
5F-F20	Military Administrative Law
5F-F21	Civil Law
5F-F22	Federal Labor Relations
5F-F23	Legal Assistance
5F-F25	Military Administrative Law Developments
5F-F26	Claims
5F-F27	Environmental Law
5F-F28	Government Information Practices
5F-F29	Litigation
5F-F30	Military Justice I
5F-F31	Military Justice II
5F-F32	Criminal Trial Advocacy
5F-F33	Military Judge
5F-F34	Defense Trial Advocacy
5F-F35	Criminal Law New Developments
5F-F40	International Law I
5F-F41	International Law II
5F-F42	Law of War Workshop
5F-F43	Legal Aspects of Terrorism
5F-F52	Staff Judge Advocate Orientation
7A-713A	Law Office Management
512-71D/ 20/50	Military Lawyer's Assistant U.S. Magistrate Court Workshop

JUDGE ADVOCATE OFFICER BASIC COURSE (5-27-C20)

Length: 9 weeks.

Purpose: To provide officers newly appointed in the Judge Advocate General's Corps with the Basic orientation and training necessary to perform the duties of a judge advocate.

Prerequisites: Commissioned officer who is a lawyer and who has been appointed or anticipates appointment in the Judge Advocate Gen-

eral's Corps or his service's equivalent. Security clearance required: None.

Substantive Content: The course stresses military criminal law and procedure and other areas of military law which are most likely to concern a judge advocate officer in his first duty assignment.

Criminal Law: Introduction to military criminal law and the practical aspects of criminal procedure and practice.

Administrative and Civil Law: Introduction to personnel law (military and civilian), legal basis of command, claims, legal assistance and Army organization and management.

Contract Law: Introduction to the law of U.S. Government contracts.

International Law: Introduction to Law of War and Status of Forces Agreements.

JUDGE ADVOCATE OFFICER GRADUATE COURSE (5-27-C22)

Length: 40 weeks.

Purpose: To provide branch training in and a working knowledge of the duties and responsibilities of field grade Judge Advocate General's Corps officers, with emphasis on the positions of deputy staff judge advocates and staff judge advocates.

Prerequisites: Commissioned officer: Career officer of the Armed Forces whose branch is JAGC or the Service's equivalent, in fourth to eighth year of active commissioned service. Army officers are selected for attendance by The Judge Advocate General.

Service Obligation: Two years.

Substantive Content: The Judge Advocate Officer Graduate Course prepares career military lawyers for future service in staff judge advocate positions. To accomplish this, the course is oriented toward graduate-level legal education comparable to the graduate programs of civilian law schools. The American Bar Association has approved the course as meeting its standards of graduate legal education. The course is

conducted over a two-semester academic year totalling approximately 42 credit hours. It consists of the following curriculum elements:

1. Core courses consisting of approximately 28 credit hours of criminal law, administrative and civil law, international law, and contract law subjects, military subjects and communications.

2. Electives presented both by The Judge Advocate General's School and the University of Virginia School of Law totaling approximately 14 credit hours.

SENIOR OFFICERS' LEGAL ORIENTATION COURSE (5F-F1)

Length: 4-½ days.

Purpose: To acquaint senior commanders with installation and unit legal problems encountered in both the criminal and civil law fields.

Prerequisites: Active duty and reserve component commissioned officers in the grade of colonel or lieutenant colonel about to be assigned as installation commander or deputy; service school commandant; principal installation commander or deputy; service school commandant; principal staff officer (such as chief of staff, provost marshal, inspector general, director of personnel) at division, brigade or installation levels; or as a brigade commander. As space permits, those to be assigned as battalion commanders may attend. Security clearance required: None.

Substantive Content: Administrative and Civil Law: Judicial review of military activities, military aid to civil authorities, installation management, labor-management relations, civilian personnel law, military personnel law, nonappropriated funds, civil rights, legal assistance, claims and government information practices. Criminal Law: Survey of principles relating to search and seizure, confessions, and nonjudicial punishment. Emphasis is placed on the options and responsibilities of convening authorities before and after trial in military justice matters, including the theories and practicabilities of sentencing. International Law: Survey of

Status of Forces Agreements and Law of War. Procurement Law: Survey of the Anti-Deficiency Act.

CONTRACT ATTORNEYS' COURSE (5F-F10)

Length: 2 weeks.

Purpose: To provide basic instruction in the legal aspects of government procurement at the installation level. Completion of this course also fulfills one-half of the requirements of Phase VI of the nonresident/resident Judge Advocate Officer Graduate Course and covers one-half of the material presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase VI.

Prerequisites: Active duty or reserve component military attorneys or appropriate civilian attorneys employed by the U.S. Government, with six months or less procurement experience. Security clearance required: None.

Substantive Content: Basic legal concepts regarding the authority of the Government and its personnel to enter into contracts; contract formation (formal advertising and negotiation), including appropriations, basic contract types, service contracts, and socioeconomic policies, contract performance, including modifications, disputes, including remedies and appeals.

CONTRACT ATTORNEYS' ADVANCED COURSE (5F-F11)

Length: 1 week.

Purpose: To provide continuing legal education and advanced expertise in the statutes and regulations governing government procurement. To provide information on changes at the policy level.

Prerequisites: Active duty or reserve component military attorneys or appropriate civilian attorneys employed by the U.S. Government. Applicants must have successfully completed the Contract Attorneys' Course (5F-F10), or equivalent training, or have at least one year's experience as a procurement attorney. Security clearance required: None.

Substantive Content: Advanced legal concepts arising in connection with the practical aspects of contracting, funding, competitive negotiation, socioeconomic policies, government assistance, state and local taxation, modifications, weapons system acquisition, truth in negotiations, terminations, labor relations problems, contract claims, and litigation. Course will normally be theme oriented to focus on a major area of procurement law. Intensive instruction will include current changes in the laws, regulations and decisions of courts and boards.

FISCAL LAW COURSE (5F-F12)

Length: 3-½ days.

Purpose: To provide a basic knowledge of the laws and regulations governing the obligation and expenditure of appropriated funds and an insight into current fiscal issues within the Department of the Army. The course covers basic statutory constraints and administrative procedures involved in the system of appropriation control and obligation of funds within the Department of Defense. This course emphasizes the methods contracting officers and legal and financial personnel working together can utilize to avoid over-obligations.

Prerequisites: Active duty commissioned officer of an armed force, or appropriate civilian employee of the U.S. Government actively engaged in procurement law, contracting or administering funds available for obligation in procurement law, contracting or administering funds available for obligation on procurement contracts. Must be an attorney contracting officer, comptroller, finance and accounting officer, budget analyst or equivalent. Attendees should have completed TJAGSA Contract Attorneys' Course, a financial manager's course, a comptrollership course or equivalent.

Substantive Content: Practical legal and administrative problems in connection with the funding of government contracts. Basic aspects of the appropriations process, administrative control of appropriated funds, the Anti-

Deficiency Act, industrial and stock funds, and the Minor Construction Act will be covered.

ALLOWABILITY OF CONTRACT COSTS COURSE (5F-F13)

Length: 2-½ days.

Purpose: The Allowability of Contract Costs Course is a basic course designed to develop an understanding of the nature and means by which the government compensates contractors for their costs. The course focuses on three main areas: (1) basic accounting for contract costs; (2) the Cost Principles of ASPR § 15; and (3) the Cost Accounting Standards Board and the Costs Accounting Standards. The course is a mixture of lectures and panel discussions aimed at covering substantive and practical issues of contract costs. This course is not recommended for attorneys who are experienced in application of cost principles.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the U.S. Government, with at least one year of procurement experience. Applicants must have successfully completed the Contract Attorneys' Course (5F-F10) or equivalent.

Substantive Content: This introductory course will focus on three main areas: functional cost accounting terms and application, cost principles, and cost accounting standards.

NEGOTIATIONS COURSE (5F-F14)

Length: 2-½ days.

Purpose: The Negotiations Course is designed to develop advanced understanding of the negotiated competitive procurement method. The course focuses on the attorney's role in negotiated competitive procurement, including: (1) when and how to use this method; (2) development of source selection criteria; (3) source selection evaluation process; (4) competitive range; (5) oral and written discussions; and (6) techniques.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the U.S. Government, with at least one, but not more than five years of procurement experience. Applicants must have successfully completed the Contract Attorneys' Course (5F-F10) or equivalent. Security clearance required: None.

Substantive Content: The course will focus on solicitation and award by negotiation including selection of the procurement method, use of the negotiation process in the development of source selection, discussion and techniques.

CONTRACT ATTORNEYS' WORKSHOP (5F-F15)

Length: 2 days.

Purpose: The workshop provides an opportunity to examine, in the light of recent developments, and discuss in depth current procurement problems encountered in installation SJA offices. Attorneys will be asked to submit problems in advance of attendance. These will be collected, researched and arranged for seminar discussion under the direction of the Contract Law faculty.

Prerequisites: Active duty or reserve component military attorneys or appropriate civilian attorneys employed by the U.S. Government with not less than 12 months procurement experience who are currently engaged in the practice of procurement law at installation level. Security clearance required: None.

Substantive Content: Discussion of current developments in procurement law and their application to the problems currently experienced in installation level procurement.

MILITARY ADMINISTRATIVE LAW COURSE (5F-F20)

Length: 2 weeks.

Purpose: To provide a working knowledge of selected subjects in the area of administrative law. (Students may attend either the week of

personnel law instruction or the week of legal basis of command instruction, or both.) This course is specifically designed to fulfill one-half of the reserve requirements of Phase IV of the nonresident/resident Judge Advocate Officer Graduate Course. It also covers one-half of the material presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase IV.

Prerequisites: Active duty or reserve component military attorney, 02-04, or appropriate civilian attorney employed by the U.S. Government. Although appropriate for active duty personnel, enrollment is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: None.

Substantive Content: Personnel Law: Basic concepts of personnel law and judicial review of military activities: statutes, regulations and court decisions relating to military personnel law, boards of officers, civilian personnel law, labor-management relations and federal review of military activities. Legal Basis of Command: Statutes, regulations and court decisions relating to the control and management of military installations and nonappropriated funds, environmental law, military assistance to civil authorities, and criminal and civil liabilities of military personnel.

CIVIL LAW COURSE (5F-F21)

Length: 2 weeks.

Purpose: To provide a working knowledge of legal assistance and claims. (Students may attend either the week of claims instruction or the week of legal assistance instruction, or both.) This course is specifically designed to fulfill one-half of the requirements of Phase IV of the nonresidents/resident Judge Advocate Officer Graduate Course. It also covers one-half of the material presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase IV.

Prerequisites: Active duty or reserve component military attorney, 02-04, or appropriate

civilian attorney employed by the U.S. Government. Although appropriate for active duty personnel, enrollment is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: None.

Substantive Content: Legal Assistance: Statutes, regulations, and court decisions which affect members of a military community, including personal finances, consumer protection, family law, taxation, survivor benefits, civil rights, and state small claims procedures. Claims: Statutes, regulations and court decisions relating to the Military Personnel and Civilian Employees Claims Act, Military Claims Act, Army National Guard Claims Act, Federal Tort Claims Act and claims in favor of the government.

FEDERAL LABOR RELATIONS COURSE (5F-F22)

Length: 4-½ days.

Purpose: To provide a basic knowledge of personnel law pertaining to civilian employees, and labor-management relations.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the U.S. Government. Reserve officers must have completed the Judge Advocate Officer Graduate Course. Although appropriate for reservists, enrollment is not recommended unless the individual is working in the area covered by the course. Persons who have completed this course within the past two-year period immediately preceding the date of this course are not eligible to attend. Security clearance required: None.

Substantive Content: Law of Federal Employment: Hiring, promotion and discharge of employees under the FPM and CPR; role of the Civil Service Commission; procedures for grievances, appeals and adverse actions; personal rights of employees; and equal employment opportunity complaints. Federal Labor-Management Relations: Rights and duties of management and labor under Executive Order 11491, as amended, and DOD Directive 1426.1;

representation activities; negotiation of labor contracts; unfair labor practice complaints; administration of labor contracts and procedures for arbitration of grievances. Government Contractors: An overview of the responsibility of military officials when government contractors experience labor disputes.

LEGAL ASSISTANCE COURSE (5F-F23)

Length: 3-½ days.

Purpose: A survey of current problems in Army legal assistance providing knowledge of important legal trends and recent developments involved in areas of legal assistance rendered to servicemembers.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the U.S. Government. Reserve officers must have completed the Judge Advocate Officer Graduate Course. Although appropriate for reservists, enrollment is not recommended unless the individual is working in the area covered by the course. The student is expected to have experience in the subject area or have attended the Basic or Graduate Course. Security clearance required: None.

Substantive Content: New developments in the areas of legal assistance rendered military personnel including consumer protection, family law, state and federal taxation, civil rights, survivor benefits, bankruptcy, and small claims. The instruction is presented with the assumption that the students already have a fundamental knowledge of legal assistance.

MILITARY ADMINISTRATIVE LAW DEVELOPMENTS COURSE (5F-F25)

Length: 4 days.

Purpose: To provide knowledge of important legal trends and recent developments in military administrative law, judicial review of military actions, and decisions relating to the operation of military installations.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the U.S. Government. Reserve officers must have completed the Judge Advocate Officer Graduate Course. Although appropriate for reservists, enrollment is not recommended unless the individual is working in the area covered by the course. The student is expected to have experience in the subject area. Security clearance required: None.

Substantive Content: New developments in the areas of military administrative law including military personnel, civilian personnel, military assistance to civil authority, legal basis of command (military installation law) and non-appropriated funds, with particular emphasis on developing case law in the areas of administrative due process, vagueness, and constitutionality of regulations, including first and fourteenth amendment considerations. Developments in the area of judicial review of military activities, including procedures for control and management of litigation involving the Army as required by AR 27-40. The instruction is presented with the assumption that students already have a fundamental knowledge of the areas covered.

CLAIMS COURSE (5F-F26)

Length: 3 days.

Purpose: To provide advanced continuing legal education in the Army Claims System, including recent judicial decisions and statutory and regulatory changes affecting claims.

Prerequisites: U.S. Army active duty or reserve component attorney or appropriate civilian attorney employed by the Department of the Army. Reserve officers must have completed the Judge Advocate Officer Graduate Course. Although appropriate for reservists, enrollment is not recommended unless the individual is working in the area covered by the course. The student is expected to have experience in the subject area. Persons who have completed this course within the past two-year

period immediately preceding the date of this course are not eligible to attend. Security clearance required: None.

Substantive Content: Claims against the government. Analysis of claims relating to Military Personnel and Civilian Employees Claims Act, Federal Tort Claims Act, National Guard Claims Act, Foreign Claims Act, and Nonscope Claims Act. Recent developments in foregoing areas will be emphasized. Claims in favor of the government. Analysis of Federal Claims Collection Act and Federal Medical Care Recovery Act with emphasis on recent developments.

ENVIRONMENTAL LAW COURSE (5F-F27)

Length: 3-½ days.

Purpose: To provide instruction in the basic principles of environmental law as they affect federal installations and activities.

Prerequisites: Active duty or reserve component military lawyer or appropriate civilian attorney employed by the U.S. Government. Reserve officers must have completed the Judge Advocate Officer Basic Course. Security clearance required: None.

Substantive Content: Basic principles of environmental law as it applies to military installations, including the National Environmental Policy Act and its requirement for preparation of environmental impact statements, the Clean Air Act, and the Federal Water Pollution Control Act. The course also includes a brief discussion of other environmental laws and the roles of the Environmental Protection Agency and the Army Corps of Engineers in environmental regulation.

GOVERNMENT INFORMATION PRACTICES COURSE (5F-F28)

Length: 2-½ days.

Purpose: To provide basic knowledge of the requirements of the Freedom of Information Act and the Privacy Act. This course is designed

primarily for practicing military lawyers in the field.

Prerequisites: Active duty or reserve component military lawyer or appropriate civilian attorney employed by the U.S. Government. Reserve officers must have completed the Judge Advocate Officer Basic Course. Persons who have completed this course within the two-year period immediately preceding the date of this course are not eligible to attend. Security clearance required: None.

Substantive Content: The disclosure requirements of the Freedom of Information Act; the exemptions from disclosure and their interpretation by the federal courts; the restrictions on the collection, maintenance, and dissemination of personal information imposed by the Privacy Act; the relationship between the two Acts and their implementation by the Army.

LITIGATION COURSE (5F-F29)

Length: 3-½ days.

Purpose: To provide basic knowledge and skill in handling litigation against the United States and officials of the Department of Defense in both their official and private capacities.

Prerequisites: Active duty military lawyer or civilian attorney employed by the Department of Defense. Enrollment is not recommended unless the individual is responsible for monitoring, assisting or handling civil litigation at his or her installation. Anyone who has completed the Army Judge Advocate Officer Graduate Course (resident) within two years of the date of this course is ineligible to attend. Persons who have completed this course within the past two-year period immediately preceding the date of this course are not eligible to attend. Security clearance required: None.

Substantive Content: The following areas will be covered: Reviewability and justiciability, federal jurisdiction and remedies, scope of review of military activities, exhaustion of military remedies, Federal Rules of Civil Procedure, civil rights litigation, FTCA litigation,

and official immunity. There will be a practical exercise in the preparation of litigation reports and pleadings.

MILITARY JUSTICE I COURSE (5F-F30)

Length: 2 weeks.

Purpose: To provide a working knowledge of the duties and responsibilities of field grade Judge Advocate General's Corps officers in the area of military criminal law. This course is specifically designed to fulfill approximately one-half of the requirements of Phase II of the nonresident/resident Judge Advocate Officer Graduate Course. It also covers approximately one-half of the materials presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase II.

Prerequisites: Active duty or reserve component military attorney, 02-04. Although appropriate for active duty personnel, enrollment is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: None.

Substantive Content: Evidentiary aspects of military criminal law practice, including: scientific evidence, confrontation, compulsory process, right to counsel, federal and commonlaw rules of evidence, search and seizure, self incrimination, identification, substantive law of offenses and defenses, and topical aspects of current military law.

MILITARY JUSTICE II COURSE (5F-F31)

Length: 2 weeks.

Purpose: To provide a working knowledge of the duties and responsibilities of field grade Judge Advocate General's Corps officers in the area of military criminal law. This course is specifically designed to fulfill one-half of the requirements of Phase II of the nonresident/resident Judge Advocate Officer Graduate Course. It also covers one-half of the material

presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase II.

Prerequisites: Active duty or reserve component military attorney, 02-04. Although appropriate for active duty personnel, enrollment is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: none.

Substantive Content: Procedural aspects of military criminal law, including: administration of military criminal law, jurisdiction, pleadings, motions, pleas, preliminary investigations and reports, court-martial personnel, trial procedures, post trial review and procedures, extraordinary writs, appellate review, professional responsibility, and topical aspects of current military law.

CRIMINAL TRIAL ADVOCACY COURSE (5F-F32)

Length: 4-½ days.

Purpose: To improve and polish the experienced trial attorney's advocacy skills.

Prerequisites: Active duty military attorney certified as counsel under Article 27b(2) UCMJ, with at least six months' experience as a trial attorney.

Substantive Content: Intensive instruction and exercises encompass problems confronting trial and defense counsel from pretrial investigation through appellate review. Issues in evidence, professional responsibility, procedure, trial advocacy, and topical aspects of current military law are considered.

MILITARY JUDGE COURSE (5F-F33)

Length: 3 weeks.

Purpose: To provide military attorneys advanced schooling to qualify them to perform duties as full-time military judges at courts-martial.

Prerequisites: Active duty or reserve component military attorneys. Security clearance required: None. Army officers are selected for attendance by The Judge Advocate General.

Substantive Content: Trial Procedure, substantive military criminal law, defenses, instructions, evidence, current military legal problems, and professional responsibility.

DEFENSE TRIAL ADVOCACY COURSE (5F-F34)

Length: 4-½ days.

Purpose: To improve and polish the experienced trial attorneys' defense advocacy skills.

Prerequisites: Active duty military attorney certified as counsel under Article 27b(2) UCMJ, with 6-12 months' experience as a trial attorney and with present or prospective immediate assignment as a defense counsel at the trial level. Security clearance required: None.

Substantive Content: Intensive instruction, keyed to defense counsel's needs, encompassing problems from pretrial investigation through appellate review. Issues in evidence, professional responsibility, procedure, trial advocacy and topical aspects are considered.

CRIMINAL LAW NEW DEVELOPMENTS (5F-F35)

Length: 3 days.

Purpose: To provide counsel and criminal law administrators with information regarding recent development and trends in military criminal law. This course is revised annually.

Prerequisites: This course is limited to active duty judge advocates and civilian attorneys who serve as counsel or administer military criminal law in a judge advocate office. Students must not have attended TJAGSA resident criminal law CLE, Basic or Graduate course, within the 12-month period immediately preceding the date of the course.

Substantive Content: Government/defense counsel post trial duties; speedy trial; pretrial agreements; extraordinary writs; 5th Amendment and Article 31; search and seizure; recent trends in the United States Court of Military Appeals; jurisdiction; witness production; mental responsibility; military corrections; pleadings; developments in substantive law; topical aspects of current military law.

INTERNATIONAL LAW I COURSE (5F-F40)

Length: 2 weeks.

Purpose: To provide knowledge of the sources, interpretation and application of international law. This course fulfills approximately one-third of the requirements of Phase VI of the nonresident/resident Judge Advocate Officer Graduate Course. It also covers approximately one-third of the materials presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase VI.

Prerequisites: Active duty or reserve component military attorney, 02-04, or appropriate civilian attorney employed by the U.S. Government. Enrollment of active duty personnel is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: None.

Substantive Content: The International Legal System: nature, sources and evidences of international law; state rights and responsibilities; recognition; nationality; international agreements; the United Nations and the International Court of Justice; international rules of jurisdiction; status of forces agreements, policies, practices and current developments; foreign claims operations overseas procurement operations; and private aspects of international law.

INTERNATIONAL LAW II COURSE (5F-F41)

Length: 2 weeks.

Purpose: To provide familiarization with the

law of war, including customary and conventional (Hague and Geneva Conventions) laws, and the national and international legal rules affecting military operations during times of peace, of armed conflict and of occupation. This course fulfills approximately one-third of the requirements of Phase VI of the nonresident/resident Judge Advocate Officer Graduate Course. It also covers approximately one-third of the materials presented in the USAR School Judge Advocate Officer Graduate Course ADT Phase VI.

Prerequisites: Active duty or reserve component military attorney, 02-04, or appropriate civilian attorney employed by the U.S. Government. Enrollment of active duty personnel is not recommended unless the individual is working toward completion of the Graduate Course by correspondence. Security clearance required: None.

Substantive Content: International customs and treaty rules affecting the conduct of U.S. military forces in military operations in all levels of hostilities; the Hague and Geneva Conventions and the General Protocols, and their application in military operations and missions, to include problems on handling of war crimes, control of civilians, Article 5 tribunals for the classification of prisoners of war; occupation and civil affairs matters; law of war training and the Code of Conduct.

LAW OF WAR WORKSHOP (5F-F42)

Length: 4-½ days.

Purpose: To provide both judge advocate and non-judge advocate officers with basic knowledge of the law of war and of the major changes now impending in this field and of the practical aspects of law of war instruction.

Prerequisites: Active duty or reserve component military attorney or appropriate civilian attorney employed by the Department of Defense, as well as non-attorney officers with command experience who are to be involved in any aspect or level of the law of war training process. Preferably, attorneys and non-

attorney officers should attend the workshop as a teaching team. However, organizations wishing to qualify either attorneys or command experienced officers in the law of war training process may send one or a number of unpaired designees. Security clearance required: None.

Substantive Content: International customs and treaty rules affecting the conduct of forces in military operations in all levels of hostilities, the Hague and Geneva Conventions and their application in military operations, to include problems on reporting and investigating war crimes; treatment and control of civilians; treatment and classification of prisoners of war; the substantial change to the law of war impending as a result of recent adoption in Geneva of the Protocols additional to the 1949 Geneva Conventions, including extensive new obligations of commanders and military attorneys. Practical emphasis is given to preparation of lesson plans, methods of instruction, and use of law of war training materials. Participation in team teaching exercises is required.

LEGAL ASPECTS OF TERRORISM (SF-F43)

Length: 2-½ days.

Purpose: To provide knowledge of the legal aspects of terrorism and counterterrorism, focusing on the questions confronting military commanders both in the United States and overseas concerning terrorism and the legality of counterterrorism measures.

Prerequisites: Active duty or appropriate civilian attorney employed by the U.S. Government whose present or immediately pending duties include a tangible requirement to advise staff or command on the legal aspects of counterterrorism. Security clearance required: Secret. Attendees will assure that orders reflect clearance status.

Substantive Content: What is the terrorism problem, and what measures are being contemplated to counter it both within and outside the United States; relevant international law and agreements, and national legislation in regard to terrorism; the use of force and lim-

itations on the use of force in foreign countries, legal rules applicable to terrorism during armed conflict; counterterrorism authority of U.S. commanders overseas; the use of force to counter terrorism within the United States both on and off federal installations; the Posse Comitatus Act; relationships within DOD, with federal or local agencies outside DOD, and in regard to other states.

STAFF JUDGE ADVOCATE ORIENTATION COURSE (5F-F52)

Length: 4-½ days.

Purpose: To inform newly assigned staff judge advocates of current trends and developments in all areas of military law.

Prerequisites: Active duty field grade Army judge advocate whose actual or anticipated assignment is as a staff judge advocate or deputy staff judge advocate of a command with general court-martial jurisdiction. Security clearance required: None.

Selection for attendance is by The Judge Advocate General.

Substantive Content: Major problem areas and new developments in military justice, administrative and civil law, procurement, and international law.

LAW OFFICE MANAGEMENT (7A-713A)

Length: 4-½ days.

Purpose: To provide a working knowledge of the administrative operations of a staff judge advocate office and to provide basic concepts of effective law office management to military attorneys, warrant officers, and senior enlisted personnel.

Prerequisites: Active duty or reserve component JAGC officer, warrant officer or senior enlisted personnel in grade E-8/E-9 in any branch of the armed services. Persons who have completed this course or the Graduate Course within the *three-year period* preceding

the date of this course are not eligible to attend. Officers who have been selected for Graduate Course attendance also are ineligible to attend. Security clearance required: None.

Substantive Content: Management theory including formal and informal organizations, motivation and communication; law office management techniques, including effective management of military and civilian personnel and equipment, and control of budget and office actions.

MILITARY LAWYER'S ASSISTANT COURSE (512-71D/20/50)

Length: 7-½ days.

Purpose: The course provides essential training in the law for legal clerks and civilian employees who work as professional assistants to Army judge advocate attorneys. The course is specifically designed to meet the needs of the Army legal clerk, MOS 71D, for skill level three training in paralegal duties.

Prerequisites: The course is open only to enlisted service members and civilian employees who are serving as paraprofessionals in a military legal office, or whose immediate future assignment entails providing professional assistance to an attorney. Students must have served a minimum of one year in a legal clerk/legal paraprofessional position and must have satisfactorily completed the Law for Legal Clerks Correspondence Course.

Substantive Content: The course focuses on Army legal practice, with emphasis on the client service aspects of legal assistance and criminal law. The course builds on the prerequisite foundation of field experience and correspondence course study. Coverage includes administrative procedures; legal assistance areas of family law, consumer protection, landlord-tenant and taxation; military criminal law areas of crimes and defenses, role of court personnel, jurisdiction, pretrial procedures and evidence; legal research; written communication; interviewing techniques; and professional responsibility.

UNITED STATES MAGISTRATE COURT WORKSHOP ()

Length: 2 days.

Purpose: Aimed primarily at the prosecutor in a U.S. Magistrate Court, this new Workshop presents an excellent opportunity for exchange of new ideas on current problems experienced in the operation of a U.S. Magistrate Court on military installations. Installations desiring to send attorneys to attend the Workshop will be asked to submit a problem for presentation in the Workshop.

Prerequisites: Civilian or active duty military attorney of the Department of Army. Preference will be given to attorneys serving as pros-

ecutors in a U.S. Magistrate Court. Security clearance required: None.

Substantive Content: Jurisdiction: statutes affecting the jurisdiction; types of federal crimes; the Assimilative Crimes Act, and the authority of JAG officers to prosecute. Practice and Procedure in the United States Magistrate Court: forfeiture of collateral plans; violation notices, informations and complaints; bench warrants and contempts; right to appointed counsel and trial by jury; providency of plea inquiries and authority of prosecutor to dismiss cases. In addition, eight hours of workshop problems will cover current topics of interest to the attorney involved with the U.S. Magistrate Court.

JAGC Personnel Section

PP&TO, OTJAG

1. REASSIGNMENTS

NAME	FROM	TO
	MAJORS	
Carr, John C.	Fort McNair, WASH DC	USAE, NGB, WASH DC
Mitchell, Kenneth M.	INSCOM, Fort Meade, MD	1st Region CID, Fort Meade, MD

CAPTAINS

Bieber, Arthur F.	Fort Campbell, KY	Korea (Diverted)
Clevenger, Kenneth H.	Germany	USALSA, WASH DC
Elkins, Estel E.	Fort Jackson, SC	Puerto Rico
Guilford, Jeffrey S.	USAARMC, Ft Knox, KY	USATDS, Fort Knox, KY
Wall, Michael J.	USALSA	USAD, Corpus Christi, TX

2. RA PROMOTIONS

LIEUTENANT COLONEL

Mowry, Richard E.	23 Jan 79
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MAJOR

Woodward, William B.	16 Feb 79
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CAPTAIN

Earl, James D.	13 Feb 69
Schlueter, David A.	18 Jan 79

3. REASSIGNMENTS OF SENIOR LEGAL CLERKS AND SENIOR COURT REPORTERS

NAME	FROM	TO
	E-9	
SGM CHARLES E. CORNELISON	Ft McPherson	Korea
SGM SELVYN RITZBERG	Germany	Ft Hood
SGM KENNETH UNDERWOOD	Korea	Ft McPherson
SGM CHARLES PETERSON	Italy	Fort Ord
MSG (P) JOHN NOLAN	Fort Ord	Korea
MSG (P) JAMES TREAT	Fort Hood	Germany

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NAME

FROM

TO

E-8

MSG WALTER G. JESTER
 MSG RONALD G. CORDELL
 MSG MARVIN L. CUNNINGHAM
 MSG ULYSIES A. JOHNSON
 MSG ERIBERTO S. LABRILLAZO
 MSG JAMES WALKER
 MSG EARL S. PHILLIPS
 MSG GENE M. BLACK
 SFC (P) VERA MILLER

Fort Rucker
 Germany
 Alaska
 Okinawa
 Fort Sill
 MacDill AFB
 Presidio of SF
 Germany
 Germany

Germany
 Fort Polk
 Fort Leonardwood
 Fort Hood
 Korea
 Germany
 Germany
 Fort Stewart
 Fort Meade

E-7

SFC JAMES W. ABRAHAM
 SFC ALONZO E. ALEXANDER
 SFC KENNETH ALFORD
 SFC CHARLES R. BELTZ JR.
 SFC CHARLES E. BROWN
 SFC LLOYD R. BURTON

Fort Benning
 White Sands MR
 Germany
 Germany
 Fort Bragg
 Germany

USACC
 Korea
 Fort Polk
 Fort Campbell
 Germany
 Military District of
 Washington

SFC JOHN COLE
 SFC LAWRENCE D. FRANKLIN
 SFC JERKER LEE GARNETT
 SFC HOWARD L. GILLIAM
 SFC DALE GOULD
 SFC CLAYTON H. HADLEY
 SFC WILLIE LEE HINES
 SFC RODERICK S. HUDSON
 SFC GERD E. JACOBI
 SFC MICHAEL J. LACOUR
 SFC DAVID R. LARSON
 SFC HARLAN E. MANNING
 SFC HAROLD E. MAPLES
 SFC MELVIN MIER
 SFC ROBERT C. MILLER
 SFC MICHAEL L. MORRIS
 SFC THELMA PALMER
 SFC GEORGE W. PEDERSEN
 SFC BERNARD PEREZ
 SFC KENNETH R. ROBERTS
 SFC CARLO ROQUEMORE
 SFC THOMAS C. RUTHERFORD
 SFC TIMOTHY E. SCHIEWE
 SFC EDWARD ZANDERS
 SFC DAVID C. CAVANESS
 SFC THOMAS KONDIK
 SFC BILLY WOOD
 SFC JOHN R. DERR
 SFC IRA LAW
 SFC LOYD RICE
 SFC JERRY D. DAWLEY

Fort Hood
 Fort Carson
 Fort Huachuca
 Fort Riley
 Korea
 Fort Benning
 Germany
 Fort Gordon
 Fort Hood
 Korea
 Germany
 Fort Riley
 Germany
 Fort Hood
 Germany
 Korea
 Fort McClellan
 Germany
 Fort Lee
 Fort Lewis
 Germany
 Germany
 Fort Dix
 Korea
 Fort B Harrison
 Presidio of SF
 Korea
 Germany
 Fort Stewart
 Korea
 Korea

Alaska
 Germany
 Germany
 Korea
 Fort Benning
 Germany
 Fort Jackson
 Korea
 Germany
 Fort Meade
 Fort Ord
 Germany
 Indiantown GAP MR
 Korea
 Fort Hood
 Fort Bliss
 Korea
 Fort Ord
 Korea
 Germany
 Fort Hood
 Fort Jackson
 Germany
 Fort Carson
 Germany
 Germany
 Fort Hood
 Fort Dix
 Germany
 Fort Ord
 Fort Carson

4. SENIOR ENLISTED PROMOTIONS

The following were selected by the FY 79 board for promotion to grade E-9, Sergeant Major:

MSG JOHN NOLAN
MSG URBANO F. AQUINGOC
MSG KEEN JOHNSON
MSG JAMES TREAT

CURRENT MATERIALS OF INTEREST

Stanko, CPT Gary G, *Posse Comitatus, What Does It Mean?*, Military Police, Vol. V, No. 4 (Winter 1978/79) at pp. 36-39.

Trial Judge Memorandum No. 1-79, Subject: Authorization to Issue Intercept/Pen Register Orders, with 2 Inclosures: AR 190-53 and DAJA-AL 1978/3742, dtd 20 Nov 1978, Subject: Wiretap, Investigative and Eavesdrop Activities (WIMEA)

Reed, MG Walter D, *Legal Aspects of Military*

Peaceful Uses of Space, 7 AF JAG Rptr 3, December 1978.

Carparelli, CPT Russell, *Speedy Trial Summary*, 7 AF JAG Rptr 21, December 1978.

Reid, MAJ David C, *Collection of Hospital Recovery Claims Under Medical Payment Coverage*, 7 AF JAG Rptr 32, December 1978.

Feres Doctrine Extended, 76 Off The Record 14, 2 January 1979.

Memorandum of Law on Authority to Conduct Strip Searches of Military and Civilian Persons Incident to a Lawful Apprehension or Detention, 76 Off The Record 196, 2 January 1979.

By Order of the Secretary of the Army:

Official:

J. C. PENNINGTON
Major General, United States Army
The Adjutant General

BERNARD W. ROGERS
General, United States Army
Chief of Staff